



International
Labour
Organization

ILO Project “Improving labour inspection system in Tajikistan and Uzbekistan through SSTC knowledge-sharing and peer-learning”

Systems of labour inspection in Tajikistan and Uzbekistan: features, gaps and recommendations

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LIST OF ABBREVIATIONS

CAS	Committee on the Application of Standards
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEU	Confederation of Employers of Uzbekistan
DWCP	Decent Work Country Programme
EU	European Union
FITU	Federation of Independent Trade Unions of Tajikistan
FTUU	Federation of Trade Unions of Uzbekistan
ILC	International Labour Conference
ILO	International Labour Organization/Office, depending on the context
ILS	International Labour Standards
MELR/MEPR	Ministry of Employment and Labour Relations of Uzbekistan/ Ministry of Employment and Poverty Reduction of Uzbekistan
OSH	Occupational Safety and Health
SILME	State Inspection Service for Labour, Migration and Employment of the Republic of Tajikistan
SLI	State Labour Inspectorate of the Ministry of Employment and Poverty Reduction of the Republic of Uzbekistan
UN	United Nations

EXECUTIVE SUMMARY

This study was carried out within the framework of the International Labour Organization (ILO) Project “Improving labour inspection system in Tajikistan and Uzbekistan through SSTC knowledge-sharing and peer-learning”, funded by PAREDV, and corresponds to its Activity 1.1.1.

Its purpose is to describe and analyse the labour inspection systems of Tajikistan and Uzbekistan, in the light of the main applicable International Labour Standards (ILS), ILO Guidelines on general principles of labour inspection, and best practices on labour inspection, in particular that of the labour inspection system of Romania.

It is also aimed at identifying the main gaps and shortcomings of those systems and at providing technical recommendations for their better alignment, in law and in practice, with the aforesaid standards and, guidelines, with a view to increase their capacity to discharge their duties and to improve their efficiency and effectiveness.

It builds on a comprehensive desk review of the key national legislation of Tajikistan, Uzbekistan and Romania, on Labour Inspection, Labour Relations and Occupational Safety and Health (OSH), comments of the ILO Supervisory Bodies, as regards the applications of the ratified ILS on Labour Inspection in Tajikistan and Uzbekistan, reports on the activities of the labour inspection services and replies of national tripartite constituents to the submitted questionnaire.

The study was prepared, on behalf of the ILO, by Mr. Valentin Mocanu, former ILO Senior Specialist on Labour Administration, Labour Inspection and OSH and current external expert, and revised by the ILO.

The study carried out allows to conclude that the main challenges faced by the systems of labour inspection of Tajikistan and Uzbekistan are the recurrent imposition of *moratoria* on inspection visits, including labour inspection visits¹, along with severe restrictions to the powers and activities of labour inspectors, including the limitation of their free initiative to carry out inspection visits, restrictions to their power to conduct inspection visits without previous notice, and further limitations on the frequency, duration and scope of inspection visits.

Other common shortcomings are coordination deficits, by the central authority, of the activities of the labour inspectors of the State and Trade Unions inspectorates and their decentralized services, with negative consequences on the homogeneity of application of the legal provisions across the country. The latter, however, do not seem to improve, on the contrary, with the novelty of entrusting such coordination to “Coordination Bodies”, such as the Council for the Coordination of the Activities of Inspection Bodies, in Tajikistan, and Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities - Business Ombudsmen -, in Uzbekistan), aimed at defending the legitimate interests of the businesses.

The insufficient allocations of financial and material resources to the labour inspection system, in particular the insufficient number of labour inspectors, their lack of adequate training and the low number of inspection visits, are also important aspects that need to be tackled.

In this context the main technical recommendations put forward include, *inter alia*, the repeal of the *moratoria* on inspection visits (or the removal of labour inspection from its scope of application), to entrust labour inspectors (in law and in practice) with the powers they need to effectively discharge their duties, to cease the limitations to the frequency, scope and duration of inspection visits, and to strengthen the coordination, supervision and control of the labour inspection system

¹ While the last moratorium on inspection visits in Tajikistan was in effect till 1 January 2023, the one imposed in Uzbekistan is still in force.

by the central authority, including the consideration of the merger and incorporation of the trade union's labour inspectorate into the state inspectorate.

Other recommendations address the status and conditions of service of the labour inspectors, their number, training, recruitment, performance appraisal, and remuneration, among other aspects.

The most important recommendation, however, is that policy decision-makers, employers and workers alike should evolve from the preconceived idea and shared assumption that an effective labour inspection system hampers business growth to the realization that it is precisely the opposite: an effective system of labour inspection is "good for business"!

By providing technical information and advice to employers and workers, contributing to improvement of the labour legislation, and enforcing legal provisions, the labour inspection system turns labour (and human) rights, foreseen in the legislation, into a reality at workplaces, contributing to the creation of a more enabling business environment, securing the rule of law, ensuring fairer competition, improving market attractiveness, increasing foreign investment, enlarging the access to new markets and global supply chains and, thus, contributing to foster business growth and social justice!

Finally, it is important to note that the present study should not be seen as official comments of the ILO nor as a replacement of the positions of its supervisory bodies.

9 May 2023

ILO Project "Improving labour inspection system in Tajikistan and Uzbekistan through SSTC knowledge-sharing and peer-learning"

ILO Decent Work Technical Support Team and
Country Office for Eastern Europe and Central Asia

INTRODUCTION

Objectives of the study

The main objectives of the present study are to describe the national systems of labour inspection of Tajikistan, Uzbekistan and Romania, to analyse and compare them, in the light of the relevant ILS on labour inspection, CEACR Observations, CAS Conclusions, ILO Guidelines of general principles of labour inspection, and the best practices of the Romania's labour inspection system, to identify the major gaps and shortcomings of these systems in Tajikistan and Uzbekistan, and to provide technical recommendations on their improvement and better alignment with the aforesaid standards.

Methodology

This study was conducted in accordance with ILO's Labour Inspection Audits Methodology, and included, in addition to the review of the main related legislation, practices and institutional frameworks, the analysis of the replies to a questionnaire (Annex II) submitted to the tripartite constituents of Romania, Tajikistan and Uzbekistan. A comparative analyse between the labour inspection systems from Romania, Tajikistan and Uzbekistan was developed, to enable a better understanding of the solutions and models developed and implemented by these countries. This report contains a description of the labour inspection structure and functions, including the available human resources, organization and means, highlights the strengths and weaknesses, and provides recommendations for promoting and enhancing the effectiveness of the labour inspection system through joint efforts of all concerned institutions, including the social partners.

Organization

This research is organized in seven main chapters. The present chapter, introduction, presents the objectives, methodology and organization of the study. The second chapter addresses the relevance of the system of labour inspection, presents its main international labour standards and guidelines and, in the light of the latter, discusses the main requirements of an effective system of labour inspection. The subsequent two chapters (third and fourth), describe the main characteristics of the systems of labour inspection in Tajikistan and Uzbekistan, with reference to the main requirements of an effective labour inspection system discussed in the previous chapter. The main gaps and shortcomings of the systems of labour inspection in Tajikistan and Uzbekistan are presented and discussed in the fifth chapter, and the recommendations for their improvement are put forward in the sixth. The last chapter, the seventh, is devoted to the presentation of the main findings of the study, in particular, the recommendations aimed at bridging the gaps of the systems of labour inspection of Tajikistan and Uzbekistan and better aligning them, in law and in practice, with the relevant ILS and guidelines.

THE SYSTEM OF LABOUR INSPECTION

Relevance of the system of labour inspection

The international labour standards (ILS), maintained and developed by the ILO, are aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity, through the provision of a framework for the regulation of labour relations at national level, which is essential for ensuring that economic growth provides benefits to all.

Despite the importance commonly recognized to international and national labour standards, the truth seems to be that, without proper implementation and enforcement, they may be pointless and remain just pieces of paper (Anderson, 2007; ILO, 2007; Jensen, 2004; Richthofen, 2002; Suard, 2016).

As such, within the international legal architecture on labour relations and Occupational Safety and Health (OSH), the key role of promoting the improvement of working conditions and the monitoring and enforcing of the compliance with labour and OSH regulations was assigned to labour inspection (ILO, 1947a, 1969a, 1978, 1981). Labour inspection constitutes an indispensable component of a national labour administration system, playing an important role in the application of standards, policies, systems and programs, either confirming that action on the ground is taking place as foreseen, identifying shortfalls and means of resolving any problems or using sanctions to enforce correct implementation (ILO, 2007).

Considering that the violation of OSH legal requirements often leads to accidents at work (Frick, 2011), labour inspection is understood as an important instrument to promote the fundamental right to a safe and healthy working environment and, in this way, to prevent occupational accidents and diseases. It is widely recognized that labour inspectorates play a central, indispensable and critical role in the improvement of the working conditions at workplaces (Tösine & Wedege, 2013) by enforcing the law, working in partnership with the other actors and coordinating the implementation and evaluation of policy measures, within the framework of such national system (Alli, 2008; ILO, 2006c, 2007, 2011; Richthofen, 2002; Takala, 2005).

Effective and efficient labour inspection system can make decent work a reality in the workplace by enforcing labour standards and improving working and employment conditions, thus increasing accountability, occupational safety and health, competitiveness and productivity with social equity.

Labour inspection is therefore commonly entrusted with the responsibility of ensuring that labour rights are turned into reality at workplaces, securing safe and healthy working environments and the prevention of occupational accidents and diseases, guaranteeing that labour market actors know their rights and obligations, and safeguarding the respect for the laws. In doing so, labour inspection also constitutes an important tool for promoting a more enabling business environment that fosters business growth, through improved workplace compliance, rule of law, fairer competition, access to new markets (trade agreements, global supply chains, etc) and attraction of foreign investment and, consequently, for advancing decent work, economic development, and social justice. By promoting decent, safe, and healthy working conditions, an effective labour inspection system is also “good for business”, as it promotes:

- The increase of business productivity and profitability: due to safer and healthier working environments; reduction of occupational accidents and diseases (and their consequences); increase of staff satisfaction/motivation; and reduction of absenteeism and presenteeism;
- The attractiveness of local market and increased domestic and foreign investment: due to fairer competition and rule of law;

- The enlargement of domestic and foreign demand: by improving working and living conditions and fairer competition;
- Access to new markets and international supply chains (EU AA, GSP, GSP+, EBA, bilateral trade agreements, etc): by ensuring fairer competition, based on value added, innovation, and creativity, rather than on “social dumping”;
- The growth of the domestic product and businesses revenues/income: due to investment and demand increases; and
- Better State services (to businesses and citizens): due to product growth and the enlargement of tax and social security (revenues/contributions) base without the increase on their rates.

As a core function of labour administration systems, labour inspection plays an important role in the improvement and implementation of national labour policies, as well as on the provision of technical information and advice to employers and workers on applicable labour legislation, as well as securing its enforcement. Governance Conventions No. 81 and 129 provide the international legal framework and benchmark for the development of strong and resilient national systems of labour inspection. The high number of ratifications of Convention No. 81 demonstrates the relevance of this public function for the efficacy of national legislation, and indirectly for giving practice to international labour standards.²

However, many countries still face the challenge of building and extending labour inspection services to all workers and employers, while others still struggle to develop a professional, effective and efficient labour inspectorates which, in many instances, are severely under-resourced, lack qualified staff and suffer legal, administrative or practical limitations in their capacity to conduct inspection visits according to the provisions of the Labour Inspection Convention, 1947 (No. 81) or the Labour Inspection (Agriculture) Convention, 1969 (No.129).³

Efforts to strengthen labour inspection services are most often a combination of legal and policy interventions, process review, strategy setting, use of technology and building the capacities of labour inspection staff to be able to identify and act upon labour law violations, which requires specialized knowledge and skills.

Main ILS and guidelines on labour inspection

The proper application of labour legislation depends on an effective labour inspectorate. Labour inspectors examine how national labour standards are applied in the workplace and advice employers and workers on how to improve the application of national law and regulations in such areas as working time, wages, occupational safety and health, and child labour. In addition, labour inspectors bring to the notice of the national authority the gaps and defects in national law. They play an important role in ensuring that labour law is applied equally to all employers and workers.

Labour inspection is one of the core functions of a system of labour administration and has been the subject of international standard setting since the ILO was founded, with references in the Treaty of Versailles⁴ and the ILO Constitution⁵ (ILO, 1919).

² ILO [Guidelines on general principles of labour inspection](#).

³ Building a culture of workplace compliance through development cooperation https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_792446.pdf

⁴ Part XIII of the Treaty of Versailles, establishing the ILO, provides (in Article 427, Ninth) that “[each] State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed” (League of Nations, 1919).

⁵ Under article 10(2)(b) of the Constitution of the International Labour Organization, the functions of the Office include helping governments improve their administrative practices and systems of labour inspection: “Subject to such directions as the Governing Body may give, the Office shall ... accord to governments at their request all appropriate assistance within its power in

ILO has adopted, over the years, numerous instruments dealing with the structure and functioning of the system of labour inspection. Either specifically focusing on labour inspection⁶; or referring to it, as an important mean of prevention and labour law compliance⁷ (ILO, 2011).

The basis for the establishment of a system of labour inspection comprises the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), along with their accompanying Recommendations (ILO, 1947b, 1969b) and the Protocol No. 81, of 1995, to the Labour Inspection Convention, 1947 (ILO, 1995).

Conventions Nos. 81 and 129 have been designated as priority ILO Conventions, which means that member States are encouraged to ratify them because of their importance in the functioning of the international labour standards system. More recently, the ILO Declaration on Social Justice for a Fair Globalization (ILO, 2008) puts special emphasis on the ILO instruments regarded as “most significant from the viewpoint of governance covering tripartism, employment policy and labour inspection”⁸. These instruments, including Conventions Nos. 81 and 129, are now referred to as the governance Conventions.

In short, ILO Convention No. 81 (ILO, 1947a) requires ratifying states to maintain a system of labour inspection for workplaces in industry and commerce; states can make exceptions with regard to mining and transport. It sets out a series of principles respecting the determination of the fields of legislation covered by labour inspection, the functions and organizations of the system of inspection, recruitment criteria, the status and terms and conditions of service of labour inspectors, and their powers and obligations. The labour inspectorate has to publish and communicate to the ILO an annual report indicating the general functioning of its services on a number of issues.

The ILO Convention No. 129 (ILO, 1969a) is similar to Convention No. 81, and requires ratifying states to establish and maintain a system of labour inspection in agriculture. Labour inspection coverage may also be extended to workers who are not in an employment relationship or one of dependency or subordination, such as: tenants who do not engage outside help, sharecroppers, and similar categories of agricultural workers; persons participating in a collective economic enterprise, like members of a cooperative; or members of the family of the operator of the agricultural undertaking, as defined by national laws or regulations.

Both Conventions 81 and 129 are mainly focused on the structure and functioning of the system of labour inspection, which are seen as the minimum requirements of an effective labour inspection system that should be implemented by ILO Constituents. In addition to the definition of the primary functions of labour inspection these conventions provide for its placement under the supervision and control of a central authority. They also foresee the necessary arrangements for the promotion of the co-operation and collaboration of the labour inspection with other government services and employers’ and workers’ organizations. Conventions 81 and 129 also provide for the need to ensure that labour inspectors have the necessary qualifications, are recruited solely on that basis and are provided with the necessary status, training and powers to effectively discharge their duties. Moreover, they foresee the mandatory notification of labour inspectorates regarding occupational accidents and diseases and the liability for prompt legal proceedings without previous warning and for application of adequate penalties to any person who violates or neglects to observe legal

connection with the framing of laws and regulations on the basis of the decisions of the Conference and the improvement of administrative practices and systems of inspection.”

⁶ Labour Inspection (Health Services) Recommendation, 1919 (No. 5) (withdrawn); Labour Inspection Recommendation, 1923 (No. 20); Labour Inspection Convention, 1947 (No. 81); Protocol of 1995 to the Labour Inspection Convention, 1947 (P. 81); Labour Inspection (Agriculture) Convention, 1969 (No. 129); and Labour Inspection (Seafarers) Convention, 1996 (No. 178).

⁷ In total, and excluding shelved and withdrawn instruments, more than 55 Conventions, one Protocol and around 50 Recommendations contain, at least, one reference to labour inspection.

⁸ They include: the Labour Inspection Convention, 1947 (No. 81); the Employment Policy Convention, 1964 (No. 122); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

provisions enforceable by labour inspectors or for obstructing labour inspectors in the performance of their duties (ILO, 1947a, 1969a). They impose to labour inspectors the duty of professional confidentiality and an incompatibilities regime, and provide for some periodic reporting responsibilities, concerning the labour inspection activities performed.

The Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81), on the other hand, extends the application of the provisions of the Labour Inspection Convention, 1947 (No. 81) to workplaces considered as non-commercial (which means neither industrial nor commercial in the sense of the Convention), thus covering all categories of workplaces that are not considered industrial or commercial. It also allows ratifying states to make special arrangements for the inspection to the enumerated public services (ILO, 1995).

Besides the above International Labour Standards, specifically focused on labour inspection, ILO also confers to labour inspection, in the generality of the other fundamental, governance and technical Instruments, the important instrumental role of promoting and enforcing the compliance with their legal provisions.

Regarding the fundamental right to a safe and healthy working environment⁹, for example, ILO Convention No. 155 (ILO, 1981) specifies that the enforcement of OSH laws and regulations shall be secured by an adequate and appropriate system of inspection, which, according to the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), should be guided by the provisions of Conventions Nos 81 and 129. The Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) foresees, in this respect, that “the national system for occupational safety and health shall include, among others, mechanisms for ensuring compliance with national laws and regulations, including systems of inspection” [Article 4(2)(c)] ILO (2006d).

The ILO Violence and Harassment Convention, 2019 (No. 190), foresees that member states should adopt an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment which should include “establishing or strengthening enforcement and monitoring mechanisms” (Art. 4(2)(d)) and “ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates” (Art. 4(2)(h)). It also provides that member states should take appropriate measures to “monitor and enforce national laws and regulations regarding violence and harassment in the world of work” (Art. 10(a)) and to “ensure that labour inspectorates and other relevant authorities, as appropriate, are empowered to deal with violence and harassment in the world of work, including by issuing orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health or safety” (Art. 10(h)).

The HIV and AIDS Recommendation, 2010 (No. 200), refers to the role that labour administration services, including the labour inspectorates, should play in implementing the instrument’s guidelines, in particular, by “developing national policies and programmes on HIV/AIDS and the world of work, combating discrimination and promoting equality of opportunity and treatment” (Paragraph 44).

The Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), on the other hand, foresees that, for its effective enforcement, the necessary measures shall be taken to ensure adequate inspection [Article 11(1)], while the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) provides that “Appropriate measures shall be taken to ensure the proper administration of regulations or provisions concerning the weekly rest, by means of adequate inspection or otherwise” [Article 10(1)] and the Holidays with Pay Convention (Revised), 1970 (No. 132) establishes

⁹ In June 2022, the 110th session of the International Labour Conference (ILC) of the ILO adopted a [Resolution](#) on the inclusion of a safe and healthy working environment in the ILO’s framework of fundamental principles and rights at work (FPRW). The resolution also declares that the [Occupational Safety and Health Convention](#), 1981 (No. 155) and the [Promotional Framework for Occupational Safety and Health Convention](#), 2006 (No. 187) shall be considered as fundamental Conventions.

that “Effective measures (...) shall be taken to ensure the proper application and enforcement of regulations or provisions concerning holidays with pay, by means of adequate inspection or otherwise” (Article 14).

In the same line, the Reduction of Hours of Work Recommendation, 1962 (No. 116) foresees that “For the effective enforcement of the measures taken to reduce hours of work progressively (...) appropriate measures should be taken to ensure the proper administration of the provisions concerning hours of work by means of adequate inspection or otherwise” [Paragraph 21(a)].

Similarly, ILO Protocol of 2014 to the Forced Labour Convention, 1930, provides that the “measures to be taken for the prevention of forced or compulsory labour should include efforts to ensure that labour inspection services and other services responsible for the implementation of this legislation are strengthened” (Art. 2).

In this context, it is also worth mentioning the Employment Relationship Recommendation, 2006 (No. 198), which calls on the competent authorities to adopt measures to ensure respect for and implementation of laws and regulations concerning the employment relationship, for example, through labour inspection services and their collaboration with the social security administration and the tax authorities (Paragraph 15).

Complementary, the ILO developed a consistent set of guidelines on Labour Inspection, in order to offer support to constituents in developing effective institutional mechanism for better compliance. In March 2022, the Governing Body of the ILO endorsed the *ILO guidelines on general principles of labour inspection*, previously validated by a tripartite meeting of experts held in December 2021. Although non-binding, the guidelines complement the provisions of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Labour Inspection Recommendation No. 81 and the Labour Inspection Recommendation (Agriculture) No. 129. The new ILO guidelines are a milestone in the field of labour inspection, providing advice on how to best structure and manage labour inspection work in any country. For this reason, it is of fundamental importance that labour inspection managers and other staff, as well as decision makers, are well informed of the content of this non-binding instrument when formulating labour inspection policies and regulations, and when performing labour inspection duties.

Minimum requirements of an effective labour inspection system

The core aspects defining an effective labour inspection system are well developed in the text of both Convention 81 and Convention 129 and developed in the text of the Recommendation. They include the scope and functions of the labour inspection system, its structure and organization, policy, planning and monitoring, labour inspectors’ status and careers, powers of labour inspectors, and methods of inspection and enforcement measures.

Mandate, functions and scope of the labour inspection system

The overall purpose of the system of labour inspection is often described as to improve working conditions, through the promotion of compliance with the legislation, whether this is achieved through inspection visits, awareness-raising, national programmes and campaigns, information and publicity, improvement of the legal framework, provision of technical information and advice, or formal enforcement action.

The mandate of labour inspection should apply equally to all workers and all workplaces in all sectors, whether private or public, in rural and urban areas, in the formal and the informal

economy, in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.¹⁰

The main functions of the system of labour inspection should be, as provided for Article 3(1) of Convention No. 81, and Article 6(1) of Convention No. 129:

- to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
- to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions; and
- to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

These main duties should be understood as indivisible, complementary and instrumental for the effectiveness of national labour legislation and labour inspectors should not be assigned to subsidiary or additional duties at the expense of the discharge of these primary functions. Neither should they be involved in formal conciliation, arbitration, determination or adjudication of individual disputes, not only because the latter are not their primary functions, but also given the potential conflict of interests between the functions of enforcement and conciliation.

The scope of the mandate of the system of labour inspection encompasses any aspect of legislation pertaining to conditions of work and the protection of workers, and may include, among others¹¹:

- fundamental principles and rights at work (freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; elimination of discrimination in respect of employment and occupation; and a safe and healthy work environment);
- investigation of occupational accidents and diseases;
- welfare facilities;
- the prevention and elimination of violence and harassment in the world of work;
- wages;
- working hours and overtime, holidays and rest periods including sick and maternity leave;
- the employment relationship;
- social security registration and contributions;
- employment of women, children and young persons and other workers with special needs (including persons with disabilities);
- the informal economy.

Structure and organization

The Article 4 of ILO C81 provides that “So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority”.

The public administration structures in charge of labour inspection should not be under the control of or, in any way, responsible to any local authority in connection with the execution of any of their

¹⁰ ILO [Guidelines on general principles of labour inspection](#).

¹¹ *Ibidem*.

duties¹², neither they should be required to obtain consent for inspections from other governmental agencies¹³.

In the large majority of the Labour Inspection institutions in the member states are functioning under the supervision and control of a central authority, usually the Minister of Labour or similar. In a limited number of situations, they are directly coordinated and controlled by the Cabinet of the Ministers or by the Parliament.

It is also noted that in the majority of cases, labour Inspectorates are organized as central, integrated institutions. In recent decades, several countries have attempted to merge their separate inspectorates into new, more integrated organizations, as a solution to improve inspection effectiveness and increase efficiency,

More recently, however, it is witnessed a tendency, in particular among Eastern Europe and Central Asia sub-region countries, to decentralize inspection services through regional and local self-government bodies, in order to improve geographical coverage and alleviate central budget expenditure, although compromising its subordination to the prescribed supervision and control by a central authority.

Collaboration and cooperation

It is essential to ensure cooperation, and strategic and operational coordination, at national and international level, between the labour inspectorate, employers, workers and their organizations, as well as between the former and private entities or other competent public authorities (social security agencies, tax authorities, police, foreign and border services, judiciary, etc.) that carry out similar activities. The latter can take the form of joint inspection actions; the setting up of special multidisciplinary units to address specific challenges (e.g., combat the misclassification of workers, tackling undeclared work; combat forced labour or child labour, etc.); the exchange and interconnection of information and data; and joint training of inspectors from different public authorities.

Status and conditions of service

Article 6 of Convention No. 81 and Article 8 of Convention No. 129, provide that labour inspectors' status and conditions of service must be such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

Labour inspection is a public function and, therefore, should be exercised by public officials. The status of public official is the best suited to guarantee, at all times, labour inspectors' independence and impartiality, as an indispensable pre-requisite for the effective discharge of their duties.¹⁴

Labour inspectors' remuneration, on the other hand, should be commensurate with their responsibilities, and consistent with that of other civil servants at comparable levels. Insufficient remuneration may result in a higher turnover among labour inspectors and make it more difficult to attract highly qualified individuals. It can also induce inspectors to seek other sources of income and create risks of bribery, undermining the accountability, effectiveness and impartiality of the labour inspectorate.¹⁵

Moreover, and besides the need to ensure that labour inspectors are reimbursed of "any travelling and incidental expenses that may be necessary for the performance of their duties", as foreseen in

¹² ILO [Guidelines on general principles of labour inspection](#).

¹³ [Committee of Experts on the Application of Conventions and Recommendations \(CEACR\) general observation](#), on the application of the Labour Inspection Convention, 1947 (No. 81), and of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), published in 2020.

¹⁴ ILO [Guidelines on general principles of labour inspection](#).

¹⁵ ILO [Guidelines on general principles of labour inspection](#).

Article 11(2) of ILO C81 and Article 15(2) of C129, should be benefit from appropriate human resources policies (foreseeing, e.g., attractive career prospects, geographical and functional mobility, etc.) in order to ensure their motivation and retention.

Recruitment

Article 7(1) and (2) of Convention No. 81 and Article 9(1) and (2) of Convention No. 129 provide that labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties and that the means of ascertaining such qualifications shall be determined by the competent authority.

The rationale behind is the understanding that the effectiveness of labour inspection depends largely on the adequacy of resources, competence and quality of its personnel.

In order to ensure the above, it is advisable that¹⁶:

- the recruitment process of labour inspectors is based on the principles of transparency, equality, merit and ability.
- the criteria for eligibility should include, in addition to the required set of soft skills¹⁷, a certain level of education and experience obtained prior to the application. The most appropriate qualifications, however, will largely depend on the mandate of the labour inspectorate, the position being recruited and general policies for entry into civil service. In many countries, the recruitment is mainly oriented to technical professions, like engineering or legal experts, while other take into account the economic activities of the region to which labour inspectors are being recruited and the resulting more needed qualifications.
- the procedure for recruiting labour inspectors should be the same applicable to the public service, with due adaptations to the specificities of the function.
- the selection should may entail different stages and procedures, including in-depth interviews conducted in a fair and objective manner, written tests to assess relevant legal and/or technical knowledge, phycological testes to assess fitness level to the demands of the functions, etc.
- where consistent with national legislation and practices, positive discrimination/affirmative action for candidates belonging to under-represented groups may by sought within the recruitment process of labour inspectors.
- successful candidates for a position as labour inspectors should go through a probationary period, after which they should sit a final examination or any other means of assessment of competence, as appropriate under national legislation or practice, in order to be permanently appointed, as foreseen in paragraph 15 of ILO Recommendation No. 20.

Number of labour inspectors

According to Article 10 of ILO C81 and Article 14 of ILO C129, the number of labour inspectors should be sufficient to secure the effective discharge of their duties, which should be determined on the basis of:

- the importance of the duties which inspectors have to perform, in particular: the number, nature, size and situation of the workplaces liable to inspection; the number and classes of

¹⁶ ILO [Guidelines on general principles of labour inspection](#).

¹⁷ For example: ability to relate to and work with people; the ability to work well under pressure and without supervision; initiative; capacity to acquire the confidence of all parties; and the ability to communicate effectively, etc.

workers employed in such workplaces; and the number and complexity of the legal provisions to be enforced;

- the material means placed at the disposal of the inspectors; and
- the practical conditions under which visits of inspection must be carried out in order to be effective.

In order to streamline the assessment of the adequacy of a given number of labour inspectors, and to provide some guidance on its suitability, some attempts were made to determine the appropriate ratio between the number and classes of workers employed or the total active population of a country or region and the number of labour inspectors available¹⁸ or, in a more simplified version, the number of labour inspectors per 10,000 workers.

Considering, however, the above factors, their different distribution across the countries and the fact that even a global ratio for a given country may be rendered inappropriate for a specific region, where the nature, quantity and complexity of the occupational risks to which workers are exposed in the predominant economic activity sector may not match the required base-qualifications of the available labour inspectors, or the number of employed population is disproportional higher or lower than the national average, ILO recommends that the appropriate number of labour inspectors should be determined on a case-by-case basis, taking into account the above factors and in close consultation with the most representative organizations of the concerned employers, workers and other relevant stakeholders.

Gender equality

According to Article 8 of Convention No. 81 and Article 10 of Convention No. 129, “Both men and women shall be eligible for appointment to the inspection staff; where necessary, special duties may be assigned to men and women inspectors”.

In this conformity, as noted in ILO Guidelines on general principles of labour inspection, conditions of service for labour inspectors should reflect gender equality, which should be supported by an appropriate regulatory framework. Whenever statutory provisions, administrative instructions or practices are inconsistent with the equality policy, their content should be repealed, as established in Article 3 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Other duly qualified technical experts and specialists

According to Article 9 of Convention No. 81, duly qualified technical experts and specialists (e.g. in medicine, engineering, electricity, chemistry) should be associated in the work of labour inspection.

The difficult scientific and technical questions which arise under the mandate of labour inspection requires that experts and specialists in areas such as medicine, engineering, electricity, chemistry, psychology, hygiene, ergonomics, and others, are engaged in the work of labour inspection. In order to allow labour inspection access to such level of expertise, those experts and specialists should be employed as labour inspection staff, and, in addition, policies, protocols and cooperation agreements should also be established, to ensure the engagement of additional experts and specialists from outside labour inspectorate, whenever needed for dealing with more specific, particular and non-recurrent challenges.¹⁹

¹⁸ In 2006, the technical services of the ILO responsible for labour inspection, have considered that the number of labour inspectors in relation to the number of workers should be approximately the following: in industrial market economies: 1/10,000; in rapidly industrializing economies: 1/15,000; in transition economies: 1/20,000; and in least developed countries: 1/40,000 (ILO, 2006a:66).

¹⁹ As point out in Paragraph 11 of ILO Recommendation No. 20, on labour inspection, and on ILO Guidelines on general principles of labour inspection.

Training of labour inspectors

Article 7(3) of Convention No. 81 provides that “Labour inspectors shall be adequately trained for the performance of their duties”, and Article 9(3) of Convention No. 129 foresees that “Labour inspectors in agriculture shall be adequately trained for the performance of their duties and measures shall be taken to give them appropriate further training in the course of their employment”. In addition, Article 10 of Convention No. 150 foresees that staff of labour administration should “have access to training necessary for such activities”.

Hence, labour inspection should assess training needs and, based on them, formulate and develop a training policy and programme resulting in a training curriculum.

Labour inspectors should be provided with training on the obligations and requirements of the legislation enforceable by labour inspectors, on the legal proceedings and procedures connected to their activity, on technologies and record-keeping, on how to deal with and communicate with employers and workers, as well as on requirements for independence, integrity, positive problem-solving attitude and the avoidance of corruption or bribery.²⁰

Initial and periodical training should be offered to labour inspectors, in order to upgrade technical skills, knowledge and information with the latest developments of the legal framework, the newest technologies applicable in the economic activities subject of monitoring and tendencies in employment, social environment and international context in the field of labour, enhance the necessary soft skills to work constructively with workers and employers (often in difficult and stressful situations) and support them in changing practices and behaviours, reinforcing ethical, behaviour and ensuring independence of labour inspectors.

Initial training should have both a theoretical and a practical component, which duration should be appropriate to the level of technical and regulatory knowledge required from labour inspectors, as well as to build their capacities to improve compliance at workplaces. The theoretical part should cover, at least: functions, powers and duties of inspectors; relevant technical knowledge and regulatory framework falling under the mandate of the labour inspectorate; labour inspection and labour administration systems; developments in the labour market; standard operating procedures; report writing; enforcement and sanctioning measures and procedure; interview skills; and conflict and stress management.²¹ The practical component, which should be accompanied and dully monitored by a more experienced senior labour inspector (mentor), may include visits to workplaces in different sectors, preparation of replies to complains or requests for technical information, preparation of inspection notices (warning notices, notices for improvement, suspension notices, infraction notices, etc., to be validated and signed by the senior labour inspector), preparation of inspection visit reports, etc.

To be effective, the training of labour inspectors should also²²:

- cover the roles of employers’ and workers’ organizations and of consultative bodies (e.g. worker’s OSH representatives and Joint OSH Committees).
- include familiarity with the commercial and operational context, the nature of particular industries and the particular challenges they face.
- be periodically complemented and updated, to refresh inspectors’ knowledge and to keep them abreast of new regulations, risks and technologies and emerging sector-specific challenges.

²⁰ ILO [Guidelines on general principles of labour inspection](#).

²¹ *Ibidem*.

²² *Ibidem*.

- Adequate the content and methods to meet the specific needs of the different positions and responsibilities of labour inspectors, including labour inspection managers.
- be taken into account withing the labour inspector's performance management system (where available).

Performance appraisal of labour inspectors

Labour inspectorate should set up a performance management system, to promote the alignment of individual performance with the overall objectives of the organizations, as well as to measure and evaluate labour inspection staff contribution to the performance of the labour inspectorate.

Moreover, the performance appraisal of labour inspectors enables a more effective management of their performance and expectations, also enabling the formulation and implementation of more effective policies as regards their career advancement and promotion, remuneration, training, etc.

The performance of labour inspectors should be appraised according to the appraisal systems used for public administration officials, with the necessary adjustments to the specificities of their activities.

Material means available for labour inspectors

According to Article 11 of ILO C81 and Article 15 of ILO C129, it is the responsibility of the competent authorities to provide labour inspectors with the necessary facilities, IT systems, and transport, including the reimbursement of labour inspectors of any service expenses, which may be necessary for the performance of their duties.

Powers of the labour inspectors

The main powers of the labour inspectors, are outlined in the Articles 12, 13, 16 and 17 of ILO Convention No. 81 and Articles 16, 18, 21 and 22 of ILO Convention No. 129, can be summarized as follows:

- To enter freely and without previous notice at any hour of the day or night any workplace;
- To carry out any examination, test or enquiry, in particular:
 - To interrogate, alone or in the presence of witnesses, the employer or the staff,
 - To require documents registers or other documents and to copy or make extracts of them;
 - To enforce the posting of notices
 - To take or remove for analysis samples of materials and substances used or handled;
- To take steps with a view to remedying defects observed at workplaces, layout or working methods;
- To issue orders requiring alterations to the workplaces, to be carried out within a specified time limit or requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers;
- To inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions;
- To decide whether to give a warning and advice, or to institute or recommend proceedings.

Obligations and incompatibilities

With a view to promote the integrity and impartiality of labour inspectors, as well as their independence from improper external influences, and the confidence of workers and employers, labour inspectors should be bound by a specific regimen of obligations and incompatibilities.

In this connection, Article 15 of ILO C81 and Article 20 of ILO C129 establish that, subject to any exceptions foreseen in national legislation, labour inspectors should:

- be prohibited from having any direct or indirect interest in the undertakings under their supervision;
- be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
- treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and should give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

Sanctions

Labour inspectorates should use a range of actions, including measures to ensure proportionate response to violations in law and in practice, to bring to the notice of competent authority defects or abuses not specifically covered by existing legislation, to provide advice and information, to use unannounced visits, effectively coordinating with employers and workers and their representatives to secure compliance. Optimal results, in terms of compliance²³, can best be achieved by combining broad compliance promotion efforts, including provision of information and technical advice, with well-targeted controls, and the appropriate use of deterrent sanctions and injunctions.²⁴

Article 17(1) of ILO C81 and Article 22(1) of ILO C129 provide that “Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning (...)” and Article 18 of C81 and Article 24 of C129 foresee that “Adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced”.

Sanctions are therefore to be used by labour inspectors as one of the instruments at their disposal to promote compliance. They should be complementary to the overall purpose of promoting compliance with labour legislation, be effectively applied and enforced, be designed, implemented and administrated in a coherent manner, be sufficiently broad, proportionate and differentiated according to the severity of the violations and their potential consequences, and sufficiently dissuasive and swiftly applied to deter incompliance.

In fact, to be credible and effective on the promotion of compliance, penalties should:

- be commensurate with the gravity and nature of the offence, the characteristics of offenders, potential risk, or the damage caused.
- be proportionate, taking into account the full range of relevant aggravating and mitigating factors, and the complexity, quality and clarity of the laws being enforced.

²³ Compliance can be seen as the status of conformity to rules, standards and practices established by national and international labour standards; whereas enforcement is one of the mechanisms to promote compliance.

²⁴ *Ibidem*.

- if fines, their amount should be regularly updated taking into account inflation, with a view to avoiding the erosion of their dissuasiveness over time
- be available for the obstruction of labour inspection activities, or for violence, harassment and intimidation against inspectors.
- be effectively enforced (in case of fines, effectively collected).

Labour inspection policy, planning, monitoring, evaluation, and reporting

The competent bodies within the system of labour administration shall, as appropriate, be responsible for, or contribute to, the preparation, administration, coordination, monitoring and review of the national labour inspection policy, and be the instrument within the ambit of public administration, and following tripartite consultation with social partners, for the preparation and implementation of laws and regulations giving effect thereto. A national policy should provide clear direction and guidance to the organization's mandate and priorities on fundamental issues regarding principles, governance and management, structure and organization, functions, and legal powers.²⁵

Such labour inspection policy should include, inter alia²⁶:

- difference between principal and additional duties.
- provisions to ensure that labour inspectors primarily use their working time visiting workplaces.
- definition of criteria for the frequency of visits.
- procedures applicable to special visits for investigation of particular complaints (that should as far as possible be promptly investigated), large establishments, SMEs, and establishments with an unsatisfactory management of safety and health.
- procedures for carrying out inquiries on occupational accidents and diseases.
- procedures for revisiting establishments, when necessary, to ascertain whether irregularities have been remedied.
- need of individual inspection reports and general annual reports.
- integrity measures to prevent and protect against corruption, abusive behaviours and violation of statutory duties by inspectors (including mechanisms for employers and workers to bring complaints against inspectors and to have them properly and impartially investigated).
- Procedures for securing the full cooperation of employers and workers and their organizations in promoting compliance.

Moreover, to achieve a coherent and objective basis for inspection action that responds to prevailing working conditions issues and anticipates geographic areas or sectors where targeted interventions may be required, labour inspectorates should adequately formulate, implement, monitor and evaluate annual activity plans and programmes and report on its results.

The programming of the activity of the labour inspectorate through a system of planning by annual objectives also introduces an element of fundamental rationality, helps to define priorities, to properly allocate the needed resources, and to monitor and evaluate performance, enabling timely

²⁵ ILO [Guidelines on general principles of labour inspection](#).

²⁶ ILO [Guidelines on general principles of labour inspection](#) and ILO Recommendation No. 20.

adjustments and contributing to the optimization of labour inspectorates' efficiency and effectiveness.²⁷

The planning and implementation of labour inspection activities should be followed by monitoring and evaluation measures. The use of activity indicators is essential to improve and monitor the inspectorate's effectiveness and efficiency. Quantitative indicators must be coupled with qualitative ones that try to measure the impact of labour inspection activities on improving labour law compliance.²⁸

Moreover, the activity of the labour inspectorate, as well as that of the labour inspectors, should be reported.

According to Article 19 of ILO C81 and Article 25 of ILO C129, labour inspectors shall be required to submit to periodical reports on the results of their inspection activities, which should be drawn up in such manner and deal with such subjects as prescribed by the central authority; they shall be submitted not less frequently than once a year.

In addition, Article 20 of ILO C81 and Article 26 of ILO C129 provides that the central inspection authority shall publish an annual general report on the work of the inspection services under its control, which should be published within a reasonable time after the end of the year to which they relate (and in any case within twelve months) and transmitted to the Director-General of the ILO. Its content should include, at least, as foreseen in Article 21 of ILO C81 and Article 27 of ILO C129 the following: a list of laws and regulations relevant to the work of the labour inspection system, data on the staff of the labour inspection service, workplaces liable to inspection and their respective number of employees, inspection visits, violations and penalties imposed, industrial accidents and occupational diseases.

Activities of labour inspection

The activities carried out by labour inspectors tend to vary according with the nature and scope of the mandate and functions entrusted to the labour inspectorate. Depending on the latter, they may include, *inter alia*:

- To visit and inspect any workplace and develop the necessary actions to ensure compliance with labour relations and OSH regulations.
- To provide technical information and advice to employers, employees and their representatives about the most appropriate way to comply with the legislation.
- To notify the employers so that, within a prescribed period, the modifications necessary to ensure the safety and health of workers at the workplace are carried out, as well as to adopt the necessary preventive measures in the field of occupational risk assessment.
- To adopt immediately executory measures, including the suspension of work in progress, in case of serious risk or serious probability of occurrence of work-related accidents or damages to worker's health.
- To carry out joint verification visits and give opinions regarding the OSH aspects of the installation, modification and operation licensing of establishments.
- To request (with immediate effect or to show afterwards in the competent local branch), examine and copy documents and other records and make photographic records, video images and measurements, as well as adopt necessary precautionary measures and

²⁷ ILO [Guidelines on general principles of labour inspection](#).

²⁸ *Ibidem*..

appropriate to prevent the destruction, the disappearance or alteration of documents and other records.

- To interrogate the employer, employees and any other person who is in the workplace, request their identification, notify witnesses, experts or any other persons to attend to the premises of the labour inspectorate.
- To request and receive the collaboration and be accompanied by experts, technicians and by the representatives of workers and employers associations.
- To conduct inquiries in cases of occupational incidents, accidents and diseases.
- To apply the inspection procedures appropriate to the regularization of detected violations (e.g., request notice, warning notice, improvement notice, suspension or prohibition notices, infraction notices and administrative infraction proceedings for sanctioning non-compliance).
- To promote the collaboration of other bodies with competence in the field of working conditions and to participate to other competent authorities the observed infractions under their jurisdiction.
- To draw up reports, information and other documents resulting from the inspection activity.
- To instruct processes concerning administrative permits related to working relationships and conditions.
- To withdraw approvals to operate or licences or change their conditions.
- To develop information, technical opinions and studies of diverse nature, within the competences of the labour inspectorate.
- To participate in working groups, committees, project teams and specific missions, for which it is designated.
- To collaborate in the inspection activity planning, in accordance with the annual work plans, as well as in joint actions developed within the cooperation framework with other regional and interregional inspection systems.
- To coordinate and perform inspections of regional, interregional and national scope.
- To instruct the administrative infringement procedures (misdemeanour labour processes) entrusted to them.
- To monitor and enforce legal provisions related to the conclusion, amendments, suspension and termination of the individual labour contracts.
- To monitor and enforce employees' rights arising from the law, collective agreements and individual contracts (working time, leaves, remuneration, maternity protection, training, consultation, participation, freedom of association, strike, safe and healthy working environment, equality and non-discrimination, prevention and elimination of violence and harassment, etc).
- To control and enforce the legislation regarding forced labour, child labour, labour exploitation, undeclared work, etc.
- To exchange data and information with other relevant public authorities, according to the law, and ensuring the protection of personal data.
- To contribute to the creation and administration of relevant databases related to labour relations and OSH.

- To monitor the certification process of activities on OSH training
- To issue technical opinions on the licensing of OSH external services and OSH training entities, to evaluate their activity providers and to submit proposals for the cancellation or alteration of their licenses.

Given the multiplicity of tasks that may fall into the remit of the labour inspection system, it is important to keep in mind that its primary functions are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers, to provide technical information and advice to employers and workers, and to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions. In this context, it is therefore important, when entrusting tasks to labour inspectors, to ensure that the tasks entrusted to them, that go beyond their primary duties, shall not be such as to interfere with their effective discharge or to prejudice in any way the authority and impartiality of labour inspectors.

Moreover, most of the time of labour inspectors should be assigned to carrying out inspection visits²⁹ which, as a general rule, should be unannounced. Legal requirements for prior notification to employers of an inspection visit or requiring consent for inspections from other governmental agencies are contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129, as noted by the ILO CEACR, in its [General Observations](#) on the application of ILO C81 and C129, published in 2020, and should be removed.³⁰

In addition, considering that workplaces should be visited as often and as thoroughly as necessary to ensure the effective application of the relevant legal provisions, as foreseen in Article 16 of ILO C81 and Article 21 of ILO C129, the lawful scope of inspections should not be restricted to certain areas or to pre-established checklists and limits for the maximum duration of inspections should not be imposed.

²⁹ As point out in ILO Guidelines on general principles of labour inspection, with reference to Paragraph 8 of ILO Recommendation No. 20. Where appropriate, the use of technology might allow for inspections to be carried out without physically visiting the workplace, especially in the cases where the aim of the inspection is checking documents, gathering witness testimony, or confirming the reparation of physical installations (which in most cases can be easily done by photographic evidence).

³⁰ ILO [Guidelines on general principles of labour inspection](#).

LABOUR INSPECTION SYSTEM IN TAJIKISTAN

Country context

Tajikistan is a landlocked Central Asia Lower Middle-Income Country, bordered by Afghanistan to the south, Uzbekistan to the west, Kyrgyzstan to the north, and China to the east. With its capital in Dushanbe, Tajikistan is the smallest nation in Central Asia in terms of territorial area (139,960 sq. Km or 54,039 sq. miles), most of which is covered by mountains of the Pamir range and over 3,000 meters above sea level.

Political system

Tajikistan is a presidential republic constituted by four provinces (or viloyat): Sughd, Khatlon, the autonomous province of Gorno-Badakhshan (abbreviated as GBAO), and the Region of Republican Subordination.

The President of Tajikistan is elected for a seven-years term using the two-round system, if no candidate receives over 50% of all votes cast. The president appoints the prime-minister and all the members of the government, without the need of parliamentary approval.

Latest Presidential elections were held in Tajikistan on 11 October 2020. The result was a fifth straight victory for long-term incumbent, Mr. Emomali Rahmon, of the Peoples Democratic Party, who was re-elected with over 90% of the vote.

Population

Tajikistan population is about 10,130,112 in April 2023³¹, ranking the 95th in the list of countries (and dependencies) by population, of which around 27.3 % was living in urban areas in 2020, and presents a population density of around 68 persons per sq. Km.

Most of the Tajikistan's population belongs to the Tajik ethnic group who speak the Tajik (the first official language), making it one of the three Persian speaking countries (alongside Afghanistan and Iran).

The median age in Tajikistan is 22.4 years, with a life expectancy of 67.99 years (2020) an infant mortality rate of 24.196 deaths per 1000 live births (in 2023) and with a death under age of 5 of 31.4 (per 1,000 live births).

Employment

In 2021, in Tajikistan, the employment to population ratio (ages 15-24, modelled ILO estimate) was reported at 20.6 %, and the participation rate was 40%. By occupation, the distribution of the labour force is 60,6% in agriculture, 15.9% in industry and 23.5% in services.

The unemployment rate (aged 15 and over) in 2016, according to Labour Force Survey, was 6,9%, and the tertiary educational attainment for the population aged 25-64 was 31%.

Economy

In 2022, the Gross domestic product (GDP) of Tajikistan, in current prices, was 8,8 billion USD. IN 2021, the GDP per capita was 897.05 (USD, PPP adjusted).

The economy of Tajikistan has been growing steadily in the past decade, with real GDP growth equaling 4.5% in 2020 and 7.4% year-on-year in the first half of 2022. Full-year GDP growth for 2022 is expected at 4.2%.

³¹ According to [worldometer](https://worldometer.com).

In 2020, the value-added shares of different economic sectors were 24% for agriculture, 22.04% for industry, including construction and 35.3% for services.

Tajikistan's competitiveness, however, appears to be lagging other Eurasia's countries, mainly due to shortcomings related to infrastructures, macroeconomic environment, technological readiness and market size issues (rather than institutions or labour market efficiency), and the top 5 problematic factors for doing business in Tajikistan have to do with foreign currency regulations, inflation, tax rates, access to financing and tax regulations.³²

Incomes and social protection

The average monthly salary in Tajikistan in June 2022 amounted to 1,647 somoni (\$161.4), which represents an increase of 10.3% compared to the same date in 2021 (1,493 somoni, or \$146.3). The highest salary (of 2,402 somoni, or \$235) was recorded in Dushanbe, and is twice as much compared to the Khatlon region (1,218 somoni, or \$119).

In Tajikistan, employees of banks and insurance companies earn, on average 4,592 somoni (\$450), on energy sector 3,057 somoni (\$300), on mining industry 3,020 somoni (\$296), on education sector 1,259 somoni (\$123.4), and on agriculture 637 somoni (62.4 dollars).

In July 2022, the minimum wage in Tajikistan increased 50%, from 400 somoni (\$39) to 600 somoni (\$58.8).

According to the Social Insurance and Pensions Agency under the Government of the Republic of Tajikistan, the total number of pensioners in Tajikistan, as of January 2022, amounted to 749,817 people. Tajik pensioners receive, on average, a monthly pension of about 319 somoni (approximately \$35 USD).

Social dialogue

The Labour Code of the Republic of Tajikistan (2016) and the laws on trade unions (2011) and employers (2006) constitute the national legal framework for regulating industrial relations and tripartite social dialogue.

Since 2009, a Tripartite Commission for Regulation of Social and Labour Relations functions in the country, as an institutional mechanism for tripartite social dialogue and relations and is chaired by the Deputy Prime Minister.

General Tripartite Agreements are signed at certain intervals, the 10th General Agreement, covering period of 2021-2023, was signed in March 2021 by Prime-Minister and the Chairpersons of workers' and employers' organizations.

Tajikistan has ratified ILO's Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

Most representative organizations of workers and employers are, respectively, the Federation of Independent Trade Unions of Tajikistan (FITUT), created in 1991, and the Union of the Employers of the Republic of Tajikistan (UERT), founded in 2006.

Cooperation with ILO and other international organizations

The Republic of Tajikistan joined the ILO on 26 November 1993. It has ratified 9 (out of 10) Fundamental Conventions, 3 (out of 4) Governance/Priority Conventions, including the ILO [Labour Inspection Convention](#), 1947 (No. 81), and 38 (out of 176) Technical Conventions.

³² The [Global Competitiveness Report 2018](#), World Economic Forum.

Tajikistan has also ratified, the ILO [Protocol of 2014 to the Forced Labour Convention](#), 1930, on 24 January 2020.

Tajikistan has been recipient of several Observations³³ and Direct Requests³⁴ from the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), as regards the application of the ratified ILO [Labour Inspection Convention](#), 1947 (No. 81).

Tajikistan did not ratify yet neither the [Labour Inspection \(Agriculture\) Convention](#), 1969 (No. 129), nor the OSH Fundamental [Promotional Framework for Occupational Safety and Health Convention](#), 2006 (No. 187).

The first programme of bilateral cooperation between the Republic of Tajikistan and the ILO was implemented in the period 2002-2004. Furthermore, to promote decent work as a key component of the national development strategy and to organize the ILO knowledge, instruments, advocacy and cooperation priorities, the ILO and national tripartite constituents of Tajikistan signed and implemented a subsequent series of Decent Work Country Programmes (DWCP), for the periods 2007-2010; 2011-2013, 2015-2017.

The current DWCP (for the period of 2020-2024), has been signed on 15 September 2020 in an online format, with the following priorities:

1. Ensuring inclusive economic growth through decent jobs creation and strengthening labour market institutions;
2. Improving working conditions and enhancing the coverage of social protection for women and men; and
3. Strengthening capacities of tripartite constituents and social dialogue institutions to address priority labour issues.

Mandate of the labour inspection system.

The State Inspection Service for Labour, Migration and Employment (SILME) is an executive state body responsible for the state supervision and monitoring of compliance with the laws and regulations of the Republic of Tajikistan on labour, safety rules, OSH standards, assessment of working conditions, migration and employment in organizations and at enterprises irrespective of their form of incorporation, sole traders and physical entities hiring paid workers.³⁵

Functions of the labour inspection system

According to section 2(5) of the Appendix I of SILME Regulations, the State Inspection Service functions are:

1. to contribute to enforcement of labour, migration and employment legislation;
2. to contribute to provision of benefits and payments to employees working in hazardous conditions;
3. to promote social partnership between the parties to social and labour relations;

³³ Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

³⁴ Direct Requests (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#); [adopted 2016, published 106th ILC session \(2017\)](#); [adopted 2014, published 104th ILC session \(2015\)](#); [adopted 2013, published 103rd ILC session \(2014\)](#); [adopted 2012, published 102nd ILC session \(2013\)](#).

³⁵ Section 1(1) of the Appendix 1 of the Regulations of the SILME, approved by the Government resolution No. 299, of 3 May 2014, and amended in 2020 (SILME Regulations).

4. to contribute to employers' and workers' improved legal awareness of laws and regulations related to labour, OSH, working conditions, migration and employment;
5. to promote employment, labour market organization, creation of new job opportunities and protection of the existing jobs;
6. to contribute to legal regulation of and compliance with contracts and collective agreements;
7. to promote effective collective bargaining and the activities of commissions for conciliation, mediation and labour arbitration;
8. to ensure state supervision and monitoring of compliance with OSH laws and regulations of the Republic of Tajikistan;
9. to contribute to detection, prevention and elimination of wage arrears (in state-funded organizations) and unregistered (informal) employment including child labour, employment of disabled people and women;
10. to promote state regulation of occupational safety and health including implementation and certification of OSH activities in organizations, state assessment of working conditions in existing and new organizations;
11. to promote compulsory special and vocational OSH training;
12. to take measures ensuring conformity of production facilities, equipment, processes and goods with OSH requirements;
13. to contribute to detection, inspection, prevention and elimination of occupational accidents' impact;
14. to contribute to prevention and elimination of consequences related to the violation of the right to work, discrimination in labour relations, forced labour including worst forms of child labour;
15. to contribute to legal regulation of work done by foreign migrants employed by business entities located in the Republic of Tajikistan;
16. other objectives contributing to the development of the world of work, migration and employment.

Scope of the labour inspection system

According to section 2(6) of Appendix 1 of the Government Resolution No.299, of 3 May 2014, the SILME is responsible for the state supervision and control in the following areas:

- compliance with the legislation of the Republic of Tajikistan and with normative instruments regulating labour, OSH, working conditions, migration and employment;
- observance of labour rights and safe working conditions, and protection of workers from illegal actions of employers, officials and other representatives of organizations;
- correct and timely payment of wages and other benefits resulting from labour rights;
- correct use of lists of industries, jobs, occupations, positions and indicators;
- implementation of activities related to occupational safety and health, provision of the appropriate benefits and compensations, special uniform and shoes, personal and hygienic protective equipment, milk and preventive nutrition to those exposed to hard, harmful, hazardous or high-risk working conditions;

- correct award and payment of compensation for the harm inflicted on workers' health at work;
- compliance of organizations, sole traders and individuals with occupational safety and health regulations and introduction of modern OSH technologies preventing occupational injuries and diseases;
- compliance of parties to collective agreements and contracts with their contractual obligations;
- workplace certification based on assessment of working conditions in organizations in accordance with the established procedure;
- compliance with labour legislation regulating work done by women and minors;
- feasibility of new job creation and elimination of existing jobs;
- employment of citizens, in particular, women and young people;
- employment quotas for those in need of social protection and unable to compete on the labour market;
- employers' compliance with the rules regulating provision of information about vacancies to the authorized body;
- compliance with the rules regulating paid public works done by the unemployed;
- compliance with the rules regulating consultations for and support of the unemployed provided by employment authorities to promote entrepreneurial activities;
- compliance with the rules regulating job fairs;
- observance of procedures regulating organized relocation of environmental migrants from dangerous areas to safe sites;
- compliance with the rules regulating internal (voluntary) migration from densely populated mountainous regions with insufficient land resources to valleys with fallow land in the Republic;
- observance of labour rights of foreign labour migrants;
- effective use of labour resources and elimination (reduction) of unregistered (informal) employment on the labour market;
- observance of workers' right to compulsory social insurance against occupational accidents and diseases and compliance with the rules regulating award, distribution and payment of benefits funded by the employer in the case of workers' temporary disability;
- compliance with the rules regulating degree of incapacity resulting from occupational accidents and diseases when hiring new workers;
- compliance with labour laws and regulations of the Republic of Tajikistan on OSH and compulsory special and vocational OSH training;
- vocational training, retraining, on-the-job training and skills development of labour migrants in the Republic of Tajikistan.

It is important to mention that state labour inspectors in Tajikistan are assigned with additional functions, which are likely to interfere with the discharge of their primary duties, as well as to jeopardize their authority and impartiality, namely:

- promoting the effectiveness of collective bargaining, activities of consensus committees, mediation and labour arbitration;

- monitor and inspect compliance with legislation on environmental, voluntary and internal migration;
- assistance in regulating the employment of foreign migrants;
- promotion of employment, the organization of the labour market, and other tasks contributing to the development of matters related to labour, migration and employment.

Notwithstanding the above mandate, functions, and scope of activities assigned to the State Inspection Service, its ability to discharge its duties is hampered by the Law of the Republic of Tajikistan No. 1505, of 21 February 2018 (as amended by Law No.1601, of 04 April 2019).

Moreover, and till 1 January 2023, there was a moratorium on inspection visits, including labour inspection visits, establishing a temporary suspension of certain powers granted by the law or other statutory instruments to authorized state bodies involved in inspections of business entities, enacted by the Decree of the President No. 362, of 16 March 2022, and regulated by the Law on moratorium on inspections of business entities, adopted by the Parliament on 27 April 2022, approved by the Parliament on 30 May 2022, and ratified by the President on 8 June 2022.

It is worth noting, in this regard, that the CEACR, on its [General Observations](#) (published 2020), regarding the Application of ILO Conventions Nos. 81 and 219, as well as on several specific Observations on the application of ILO C81 by Tajikistan (vide CEARC Observations adopted in, [2018](#), [2019](#), [2020](#), and [2021](#)), has already addressed most of these restrictions and limitations.

Structure and organization

The SILME is included in the structure of the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan and is under the supervision and control of the Prosecutor General's Office of the Republic of Tajikistan.

According to the Appendixes 2 and 3 of the Resolution No.299, State Inspection Service is organized as a central Office, comprising 5 operational departments and 2 Support and Administration departments. The State Inspection Service also comprises 1 unit, 2 departments and 4 divisions operating at the territorial level.

Besides the SILME, the labour inspection system in Tajikistan also includes the Labour Inspectorate of the Federation of Independent Trade Unions of Tajikistan, which exercises public control over compliance with labour protection standards and rules in accordance with Article 357 of the Labour Code of the Republic of Tajikistan, Trade Unions Act and the Regulations on the Trade Union Labour Inspectorate, approved by a decision of the General Council Executive Committee of the Federation of Independent Trade Unions.

Within the national system of labour inspection, the Council for the Coordination of the Activities of Inspection Bodies appears to play both a coordinating role between the SILME and the trade union inspectorate, and a role akin to supervision over the SILME. In fact, pursuant to section 6 of the Law on Inspections of Economic Entities No. 1269 (Law No. 1269), as last amended in 2020, the remit of this Council includes reviewing annual inspection body reports, with an annual assessment of the effectiveness and efficiency of inspections, and ensuring that inspection bodies comply with inspection rules, while according to sections 29 and 37 of Law No. 1269, the SILME is required to report to multiple bodies, including the Council for the Coordination of the Activities of Inspection Bodies.

Furthermore, the duality of inspection functions assumed by and of different rules apply to state and trade union labour inspectors, as well as the apparent overlap of supervisory and control functions performed by the Prosecutor's Office and by the Council for the Coordination of the

Activities of Inspection Bodies, raise concerns as regards the placement of labour inspection under the supervision and control of a central authority and the homogeneity of application of legal provisions across the country.

Collaboration and cooperation

The SILME coordinates its activities and collaborates with the Prosecutor's Office, prosecution agencies, executive government authorities, include the mining supervision, local government authorities, financial bodies, local authorities, non-governmental organizations, international organizations, trade unions, and other organizations.

The State Inspection service also cooperates with the Council for the Coordination of the Activities of Inspection Bodies, established pursuant to Article 35 of the Law No. 1269, of 25 December 2015, on Inspections of the Operations of Business Entities, to ensure cooperation and coordination among the activities of inspection bodies.

To strengthen such cooperation and coordination among inspection agencies, and to facilitate the discharge of their duties, Article 40 of the Law No. 1269 provides that each inspection body has to create and maintain an informational database and management system which should contain, inter alia, a list of all legal entities and individual entrepreneurs whose operations are to be inspected; information on the results of the inspections carried out; information on the use of the inspection agency's resources; decisions to conduct inspections; inspection reports; and decisions made based on the results of the inspections.

Furthermore, Article 41 of the Law No. 1269 foresees the creation of a unitary platform for the implementation of inspections and information management system for the efficient exchange of information between the databases and management systems of inspection agencies, including coordinating planning for inspections, preventing duplication of inspections, preventing excessive time spent inspecting the operations of business entities, and using information for risk assessment in each sector. It is expected that the said platform also incorporates information obtained from inspection bodies, risk assessment data, and data on the inspections scheduled and performed.

The cooperation with trade unions, in the area of inspection, is carried out with the Labour Inspectorate of the Federation of Independent Trade Unions.

In cooperation with other government bodies, the SILME can conduct joint inspections of compliance with labour, migration and employment legislation.³⁶

Status and conditions of service of labour inspectors

According to the information provided by the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan, state labour inspectors are civil servants, whose status and conditions of service are guaranteed under the Civil Service Law, which provides them with stability of employment.

As for their remuneration, and according to the Ministry, its commensurate with their responsibilities, and consistent with that of other civil servants at comparable levels.

In line with the Provisions on the State Inspection Service, the number of employees, payroll and staffing of the Central Office of the State Inspection Service and the cost estimates for its activities within the limits set by the Government of the Republic of Tajikistan and in line with indicative requirements are approved by the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan on the basis of proposals submitted by the Head of the State Inspection

³⁶ Art. 4 of the Provisions on the State Inspection Service for Labour, Migration and Employment, Appendix 1 of the Resolution No.299, adopted by the Government of the Republic of Tajikistan on 3 May 2014.

Service. Accordingly, the number of employees, payroll and staffing of departments included in the organizational structure of the State Inspection Service and cost estimates for their activities within the budgetary resources available for the relevant period are approved by the Head of the State Inspection Service.

As regards the trade union inspectorate, chief inspectors are dismissed and appointed by the board of trade union bodies (as foreseen in sections 1.7 and 1.8 of the Regulations on the Trade Union Inspectorate), and the funding of the inspectorate is provided from trade union funds and other sources not prohibited by legislation.

Moreover, pursuant to Article 37(1) of Law No. 1269, the performance of an inspection body official conducting an inspection shall be assessed based on criteria which includes feedback from the inspected economic entity regarding the official, which may put at risk the impartiality and independence of labour inspectors in the performance of their duties.

In addition, Article 19(7) of Law No. 1269, provides that in case the results of an unscheduled inspection discover significant shortcomings in the operations of a business entity in which a scheduled inspection has been conducted, the official who conducted the scheduled inspection shall be held accountable, which may also compromise the impartiality and independence of labour inspectors in the performance of their duties.

Recruitment of labour inspectors

The Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan, in its replies to the questions of the questionnaire, informed that labour inspectors are recruited based on the principles of transparency, equality, merit and ability.

Number of labour inspectors

In line with the Art. 2 of the Resolution on the State Inspection Service for Labour, Migration and Employment, the number of the employees of the State Inspection Service for Labour, Migration and Employment is limited to 60 people (excluding the support staff) including 28 employees of the Central Office.

In Tajikistan there are 78 employed personnel operating in the frame of the State Inspection Service, distributed as follows:

- Management: 18
- Labour inspectors: 48
- Administrative staff: 12

Moreover, the 48 state labour inspectors are distributed, as follows, by specialized functional area:

- OSH - 16
- Labour relation - 16
- Employment - 10
- Migration - 6

In addition, the Labour Inspectorate of the Federation of Independent Trade Unions of Tajikistan has 44 labour inspectors in total, including 1 Chief labour inspector at the Federation and 3 Chief labour inspectors at the regional trade union committees.

Considering a total employed population of 2,533,200³⁷, one labour inspector serves, on average, 52,775 workers.

Training of labour inspectors

To promote the enhancement of inspectors' qualifications, Article 38 of the Law No. 1269 provides that inspection bodies must support the basic goals and principles of enhancing the qualifications of their inspectors as regards technical knowledge and skills in conducting inspections and in providing consultations to business entities. For that, the inspection bodies have to:

- Develop and approve, by 1 March of each year, an annual plan for the enhancement of inspector's qualifications.
- Ensure that inspector's qualifications are enhanced at least once in every three years.
- Submit, at least once in every three years, to the authorized state body for public service, the basic qualification requirements for the selection and placement of inspectors.

According to the replies of the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan to the Questionnaire, labour inspectors undergo an initial training with a duration of up to 3 months and continuous training of 40 to 80 hours per year.

Performance appraisal of labour inspectors

Pursuant to Article 37 of the Law No. 1269, the inspection bodies must develop an evaluation system for the performance of inspectors with due regard of the following criteria:

- feedback received from business entities concerning inspectors;
- the number of consultations and recommendations pertaining to compliance with the requirements of the legislation of the Republic of Tajikistan which were provided to business entities; and
- evaluation of the inspector's performance in reducing risk.

Moreover, it foresees that the number of penalties, fines or other indicators applied pursuant to sanctions of business entities shall not constitute a basis for evaluating the performance of inspectors.

Material means available for labour inspectors

According to the replies of the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan Annually to the Questionnaire, labour inspectors are provided with the resources necessary to effectively discharge their duties, in particular, transport, premises, personal computers, and mobile phones.

Powers of the labour inspectors

According to the section 3(7) of Appendix 1 of the Resolution No.299, of 3 May 2014, state labour inspectors are entrusted with the following powers:

1. to inspect organizations, sole traders and individuals employing hired workers, for the purpose of state supervision and control of compliance with labour, migration and employment laws and regulations of the Republic of Tajikistan in accordance with the established procedure;
2. to make scheduled and unannounced inspection visits to ensure uniform enforcement of labour, migration and employment legislation of the Republic of Tajikistan;

³⁷ Data provided by the Federation of Independent Trade Unions of Tajikistan in its Questionnaire.

3. in cooperation with other government bodies to conduct joint inspections of compliance with labour, migration and employment legislation;
4. to assess working conditions in existing and new organizations;
5. to issue reports on compliance with OSH laws and regulations in construction and renovation of production facilities, machines and equipment;
6. to fulfil the functions of the key budget holder of the funds received from the Republican budget to finance the activities of the State Inspection Service and the tasks entrusted to it;
7. to make proposals on improving the legislation of the Republic of Tajikistan and other normative instruments regulating labour, migration and employment;
8. to take measures to prevent violation of labour, migration and employment law and to raise employers' and workers' awareness of labour, migration and employment legislation of the Republic of Tajikistan;
9. to copy, take photos of and document evidence in the course of state supervision and during inspection visits;
10. to create coordination, advisory and expert bodies (councils, commissions, consultative groups) in specified areas;
11. to file with courts and other relevant authorities of the Republic of Tajikistan materials documenting violations of labour, migration and employment law and failure to comply with the notices issued by the State Inspection Service based on supervision and inspection visits and in accordance with the established procedure;
12. in line with the legislation of the Republic of Tajikistan, to suspend activities of organizations, production facilities and sole traders until OSH violations have been eliminated, if activities of such organizations pose a threat to workers' life and health;
13. to prohibit further use of special uniform, shoes and personal protective equipment if they do not meet the requirements of standards and technical conditions;
14. to take restrictive and pre-emptive measures provided for by laws and regulations of the Republic of Tajikistan to prevent or/and eliminate violations of mandatory requirements committed by legal entities and individuals in the specified areas and measures to eliminate the consequences of the above-mentioned violations;
15. to request and receive information on working conditions, safety procedures, employment, occupational injuries and diseases from Ministries, Departments and Organizations within the prescribed time limits;
16. to request state statistical authorities to provide statistics related to labour, wages and social development;
17. to issue notices compelling organization executives to repeal any by-laws contradicting labour, migration and employment legislation of the Republic of Tajikistan;
18. to involve specialists from different departments, research centres and other organizations in consultations, expert assessment and examination and development of certain issues related to OSH and working conditions, and to invite representatives of law-enforcement bodies to take part in inspection visits;
19. to hold seminars and conferences on expert assessment and certification of workplaces with regard to working conditions; laboratory measurements of harmful factors of the working environment; labour disputes; to provide legal advice on labour issues based on contracts with stakeholders;

20. to request the necessary information from state tax authorities on availability of the legal address, surname and name of the chief executive and chief accountant of legal entities and physical entities acting on the basis of a certificate;
21. to file requests with employers, their representatives, the central executive authorities, local executive authorities and other organizations and receive documents, explanations and information necessary to exercise the State Inspection Service's supervisory and control functions;
22. to provide consultations and information related to labour, migration, employment and OSH to legal entities and sole traders acting on the basis of a certificate;
23. within its mandate under the Procedural Code of Administrative Offenses of the Republic of Tajikistan, to examine cases of administrative violations and to impose administrative sanctions (as amended by RT Government Resolution №418 of 24.07.);
24. to perform other functions established by the legislation of the Republic of Tajikistan..

It is worth noting that the free initiative of the state labour inspectors in Tajikistan for carrying out inspection visits in Tajikistan and to exercise the above powers, were greatly restricted, till 1 January 2013, by the *moratorium* on inspection visits³⁸ and remain severely restricted by the ban on inspection visits during the first two years of the businesses operation (except for business entities with a high degree of risk), as foreseen on Articles 16, 22(4), and 23 of the Law No. 1269, of 25 December 2015, on Inspections of the Operations of Business Entities.

The Law No. 1269 imposes other serious limitations on the powers and activities of the state labour inspectors, including with regard to:

1. The limitation of the power to undertake inspection visits without previous notice (Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24). Moreover, Article 24(1) inclusively states, in this respect, that "*Notification in writing shall constitute the principal prerequisite for conducting an inspection*";
2. The limitation of the power to conduct inspection visits at any hour of day or night, as according to Article 26(5) "*Inspections shall be conducted solely during the operating hours and workdays of the business entity, except for unscheduled inspections*".
3. The need, prior to conduct an inspection visit, to:
 - a. Verify one of the grounds to carry out and inspection visit (Article 19):
 - i. Written request of the business entity;
 - ii. Application to inspection agencies and submission of a request from physical persons, legal entities, or authorized state bodies concerning either the fact or high probability of causing grave harm to people's life and health, the environment, or national security, as well as the occurrence of natural or industrial emergency situations;
 - iii. Request of the Government of the Republic of Tajikistan, particularly in order to prevent emergency situations;
 - iv. In the event of a criminal case.

³⁸ Enacted by the Decree of the President No. 362, of 16 March 2022, and regulated by the Law on moratorium on inspections of business entities, adopted by the Parliament on 27 April 2022, approved by the Parliament on 30 May 2022, and ratified by the President on 8 June 2022.

Moreover, according to Article 19(3), conducting unscheduled inspections on other grounds is prohibited.

- b. Have a decision to conduct the inspection visit signed, with the indication of its scope, which cannot be changed (Article 12);
 - c. Register the inspection visit in the Inspection Register (Article 13);
 - d. Notify the employer about the inspection visits, at least five working days in advance, with the obligation to attach several information, including (Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24):
 - i. The name of the inspector;
 - ii. The grounds for conducting the inspection;
 - iii. The matter, purpose, and facility to be inspected;
 - iv. The starting and ending dates for conducting the inspection;
 - v. List of control questions (checklists) with which inspections have to be conducted.
4. The severe limitation on the frequency of inspections, which is restricted by:
- a. The limitations on conducting additional (Article 20) and repeated (Article 21) inspections;
 - b. The restrictions imposed by the procedure for conducting inspection visits (e.g., grounds foreseen in Article 19); and
 - c. The fact that the frequency of scheduled inspection visits is defined in an annual scheduled inspection plan, approved by the head of the central inspection body with the consent of the Council for the Coordination of the Activities of Inspection Bodies, and drawn up with due regard for the inspection intervals established for each category of risk in accordance with the degree of risk of each specific business entity (Article 18). Accordingly, and depending upon the degree of risk, scheduled inspections shall be conducted at the following intervals (Article 22(2)):
 - i. No more often than twice each year for business entities with a high degree of risk;
 - ii. No more often than once in three years for business entities with a moderate degree of risk;
 - iii. No more often than once in five years for business entities with an insignificant degree of risk.
5. Limitations on the duration of the inspection visits. According to Article 26(3), *"Inspection of the operations of business entities shall continue no more than ten workdays for major enterprises, no more than five days for medium-size enterprises, and no more than two workdays for small enterprises"*.
6. Limitations on the scope of the inspection visits, by:
- a. Requiring the concrete definition of the scope of the inspection visit (which cannot be changed during the inspection visit, even if the situation at the workplace do so advise) prior to initiate the inspection visit (Articles 13(4), 18(6), 19(2) -19(5), 22(6), 24(2), 30(1), 32(1), and 34).

- b. Establishing the obligation of the state labour inspectors to conduct inspection visits on the basis of specific List of Control Questions, or checklists, approved by inspection agencies (Article 25). Inspection of the operations of a business entity shall be carried out in keeping with the list of control questions, and departures from its guidelines are prohibited (Article 25(3)). The list of control questions with which inspections are conducted shall be delivered to the business entity simultaneously with the notification of inspection. Failure to deliver the list of control questions to the business entity simultaneously with the notification of inspection entails invalidity of decisions based on the results of inspection (Article 25(3)). In addition, according to Article 19(5), inspection of matters which are not grounds for conducting the unscheduled inspection and are not stipulated in the list of control questions is prohibited
7. The limitation of the power of state labour inspectors to take measures with immediate executory force in the event of serious and imminent danger to the life, health or safety of the workers, namely to suspend works, by:
 - a. Limiting the temporary suspension to a maximum of three months (Article 30(4)); and
 - b. Providing for the suspension of the execution of such decision until a decision has been reached on the merits its appeal, as foreseen in Article 43(4).

In addition, according to Article 16 of the Law 1269, inspections of the operations of business entities shall be invalid in the following circumstances:

- failure by inspection agencies to send to a business entity notification in writing of an impending inspection and a list of matters to be inspected;
- failure to present to the business entity the public service identification of the inspector when conducting inspections of the operations of business entities;
- failure of an inspector to make an entry in the business entity's registry;
- conducting a first inspection of the operations of a business entity during the first two years of its operation, except for business entities with a high degree of risk.

Sanctions

According to the replies of the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan to the Questionnaire, adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties are provided for by national laws or regulations and may be applied immediately, upon detection of an infringement.

However, the current restrictions of the powers and activities of the state labour inspectors (e.g.: ban on inspections to new businesses during the first two years of their operation, limitation of the powers of labour inspectors, as well as limitations to the frequency, duration and scope of inspection visits) and their negative impacts on the number of inspection visits conducted and on the conditions under which they are carried out, necessary hampers the ability of labour inspectors to promote and enforce compliance, including through sanctions.

Labour inspection policy, planning, monitoring, evaluation and reporting

The government replies that a labour inspection policy is annually developed and implemented to provide clear direction and guidance on the organization's mandate and priorities and that its implementation is followed by monitoring and evaluation measures, based on quantitative and qualitative indicators.

According to Article 36 of the Law No. 1269, the Government or other central bodies of the state's executive branch exercising administrative control over an inspection body develop annually strategic goals and an annual plan for the activities of the inspection body and evaluate its activities based upon the following indicators:

- the degree of hazard or likelihood of accidents in the field inspected (mortality, injuries, emissions, pollution, and other indicators) and the changes in those indicators;
- activity indicators for the number of inspections, consultations, and trainings together with their results;
- public opinion indicators;
- results of a social survey indicating the perception and evaluation by the business community and public organizations of the activities of inspection agencies.

Moreover, according to Article 35 of the Law No. 1269, inspection bodies must develop an annual plan for scheduled inspections, which shall indicate the priorities and plans for the next year and include:

- estimates of the basic risks in each field to be inspected;
- estimates of the number of scheduled inspections that will be conducted by inspection body;
- estimates of the number and types of consultations and instructional events provided by inspection bodies.

Such a plan shall be developed on the basis of:

- an analysis of the current degree of compliance of the operations of business entities with the legal regulatory acts;
- the awareness of business entities with regard to conducting their operations in compliance with legal regulatory acts;
- the assessment of the degree of risk attributable to the operations of a business entity;
- the reasons for non-compliance or inadequate fulfilment of the requirements imposed on business entities by the legislation of the Republic of Tajikistan;
- the previously applied measures for preventing infractions of laws and enforcement actions; and
- the most frequently disregarded regulatory standards of inspection agencies.

Furthermore, pursuant to Article 37 of the Law No. 1269, the inspection bodies prepare and submit quarterly to their senior bodies reports on their activities, in which the following information shall be incorporated:

- assessment of the degree of risk in the field to be inspected;
- tasks for the current year, their execution, and results of evaluation;
- consultation activities with indication of the most pressing concerns of business entities during the reporting period and the standards of the legislation of the Republic of Tajikistan which require explanation in the most detail;
- the number, nature, and duration of inspections;
- a brief summary of the inspection agency's financing of inspections.

In addition, inspection bodies are also expected to prepare and submit to the Council for the Coordination of the Activities of Inspection Bodies annual reports concerning their work, which

shall include information on the number of unscheduled and repeat inspections conducted, as well as brief information on all applications from business entities (Article 37 of Law 1269).

Although the Government has communicated to ILO the Annual Report on Labour Inspection 2020–21, with detailed information as regards the requirements foreseen in Article 21(a), (b), and (d)–(g) of the ILO C81, this report does not contain, however, statistics of workplaces liable to inspection and the number of workers employed therein, as foreseen in Article 21(c) of the Convention, and noted in Observation (CEACR) - adopted [2021](#), published 110th ILC session (2022), regarding the application of ILO C81 by Tajikistan.

Activities of labour inspectors

The number, nature and scope of inspection visits carried out by labour inspectors in Tajikistan, during 2020 and 2021, was as follows:³⁹

Inspection visits	State Inspection Service		FITU Inspectorate		Total	
	2020	2021	2020	2021	2020	2021
Nature						
First visits	24	13	1,093	1,062	1,117	1,075
Follow-up visits	1,904	2,575			1,904	2,575
Total	1,928	2,588	1,093	1,062	3,021	3,650
Scope						
OSH	118	235	945	1,002	1,063	1,237
Labour relations	1,750	2,284	58	30	1,808	2,314
Others	60	69	90	30	150	99
Total	1,928	2,588	1,093	1,062	3,021	3,650

The analysis of the above table allows concluding that the number of labour inspection visits conducted by SILME increased 34% during 2021, although still presenting a rather low number of inspection visits per year (2,588) and per month (216 on average).

The fact that only 9% of the inspection visits conducted by SILME were focused on OSH is also an aspect of concern that deserves further analysis.

In addition, and considering the number of state labour inspectors (48) and the number of inspection visits carried out by the State Inspection Service in 2021 (2,588), one can conclude that the state labour inspectors performed, on average, 4.9 inspection visits per month.

³⁹ According to the information offered by the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan and the Federation of Independent Trade Unions of Tajikistan, through the answers to Questionnaire for the Comparison and analysis of the of labour inspection systems of Romania, Tajikistan and Uzbekistan (Annex II to this Report).

LABOUR INSPECTION SYSTEM IN UZBEKISTAN

Country context

The Republic of Uzbekistan is a Central Asia doubly landlocked lower-middle-income country, whose capital and largest city is Tashkent. It is surrounded by five countries: Kazakhstan to the north; Kyrgyzstan to the northeast; Tajikistan to the southeast; Afghanistan to the south; and Turkmenistan to the southwest.

Political system

Uzbekistan is a presidential republic, whose President, as the head of State, ensures the coordinated functioning and interaction of state authorities.

According to the provision of the Constitution, in force from 1992, the Cabinet of Ministers is appointed by the President and approved by the Parliament (Oliy Majlis).

The President is elected by the citizens of the Republic of Uzbekistan based on universal, equal and direct suffrage by secret ballot for a term of five years, with a limit of two consecutive terms.

Population

In 2022, the population of Uzbekistan was estimated at around 36 million people, 34.1% of which are younger than 14 years old. In 2012, the median age in Uzbekistan was 24.88 years.

The population density in Uzbekistan is 79.8 per sq. km, considering the total land area OF 448,969 sq. km. In 2021, AROUND 51% of the population lived in urban areas.

Life expectancy in 2022 was 71.67 years for men and 74.29 for women. In 2022, infant mortality was estimated at 12.4 infant deaths per 1,000 live births and the indicator of death under the age of 5 was about 14 per 1,000 live births.

Employment

In Uzbekistan, the employment rate for the population aged 15 and over was estimated at 54% in 2021 (66% for men and 42% for women). In the same year, the participation rate of the labour force, for the population aged 15 and over, was 58%.

As of the third quarter of 2022, the total number of employed population was 13,835,866.⁴⁰

By occupation, the distribution of the labour force in 2019 was 26% in Agriculture, 23% in industry, and 51% in services.

The unemployment rate was 9 per cent in 2019, slightly lower than in 2018. However, due to the lockdown during the pandemic, it rose to 13.2 per cent during the first six months of 2020, but by the end of 2020 decreased to 10.5 per cent. In addition, 2020 witnessed a dramatic rise in unemployment among both young men (20.1 per cent during the first six months, and 19.4 per cent by the end of 2020) and young women (17.4 per cent and 14.1 per cent, respectively).

The youth unemployment, for the labour aged 15-24 was 15.9% (modelled ILO estimate):

Tertiary educational attainment at least completed short-cycle tertiary for the population 25+ was 69.2%.

Economy

Uzbekistan's economy has been growing rapidly since the middle of the first decade of the 2000s, with average growth rates of 7.1 per cent in 2005-2019. In 2019, annual GDP growth slowed sharply

⁴⁰ Uzbekistan's statistics on labour market. Accessible at: [Labor Market \(stat.uz\)](https://stat.uz).

from 5.8 per cent to 1.6 per cent in 2020⁴¹ and is estimated to increase 6.2 percent in 2022.⁴² However, Russia's invasion of Ukraine is expected to slow Uzbekistan's growth to 3.6 percent in 2022, according to World Bank, due to a halving of remittances, record global oil and food prices, trade, investment, and banking disruptions, and the return of migrant workers.⁴³

In previous years, economic growth contributed to poverty reduction. Poverty fell from 25 per cent in 2005 to 11.4 per cent in 2019, including a reduction from 30 to 14.3 per cent in rural areas and from 18.3 to 8.4 per cent in urban areas.⁴⁴ According to the World Bank, in 2021, about 7.5 percent of citizens lived below the World Bank's lower-middle-income poverty line and many more live close to this line and are at high risk of poverty. One in six households has a member working abroad, mostly in Russia.⁴⁵

While GDP increased by 67.6 per cent⁴⁶ from 2010 to 2018, employment grew only by 14.1 per cent, with no significant change in its sectoral structure. In early 2020, the population reached 33.9 million, with the labour force accounting for around 19 million, according to official estimates. The Ministry of Employment and Labour Relations estimated that formal sector employment rose by 3.7 per cent in 2019 in comparison with 2018 due to a reduction in labour-related tax rates and an improvement in tax administration. Informal employment is pervasive, and a substantial proportion of workers are underemployed.

In the fourth quarter of 2022, the economy of Uzbekistan expanded by 5.7 percent year-on-year, easing slightly from a 5.8 percent growth in the previous three-month period⁴⁷. Even though Uzbekistan's economy is relatively closed, it has been growing steadily due to its vast natural resources of oil, natural gas and gold. Receipts from these key industries allow the government to control the economy through investments in services (accounting for 48 percent of GDP) and industry (accounting for 40 percent of GDP). Uzbekistan is currently the world's fifth largest producer of cotton but is attempting to diversify its agriculture towards fruits and vegetables.

Incomes and social protection

The minimum wage in Uzbekistan increased 12%, in June 2022, to UZS 920,000 (around EUR 72.82), representing around UZS 5,520 (EUR 0.44) per hour, while the average monthly nominal accrued salary was, in January-March 2022, about UZS 3,426,800 (EUR 271.16), representing an increase of 19.1% YoY.⁴⁸

In April 2023, the minimum wage was raised 7% to UZS 980,000 (around 77.55 EUR).

According to the Statistics Agency, in 2022, there were 4,253,100 pensioners in Uzbekistan, with an average pension of UZS 963,574 (approx. 76.27 EUR). Since April 2023, the minimum amount of the old-age pension is UZS 677,000, or 53.56 EUR (previously UZS 633,000, or 50.08 EUR), and the minimum amount of disability pensions, including disability pensions for incomplete work experience (as well as the amount of benefits on disability, paid to disabled citizens, and benefits to persons with disabilities since childhood) is UZS 747,000 (about 59.08 EUR).

⁴¹ vvp.dek.2020.ru.pdf (stat.uz)

⁴² [World Bank's Global Economic Prospects Report - Slowing Growth, Rising Risks.](#)

⁴³ [Uzbekistan Overview: Development news, research, data | World Bank.](#)

⁴⁴ Based on the national poverty line, whose measurement methodology needs to be brought closer to international standards: <http://nsdg.stat.uz/en/databanks>

⁴⁵ [Uzbekistan Overview: Development news, research, data | World Bank.](#)

⁴⁶ In constant 2010 prices. World Development Indicators.

⁴⁷ Statistics Agency under the President of the Republic of Uzbekistan.

⁴⁸ *Ibidem.*

Social dialogue

The parties to social dialogue in Uzbekistan are the Government, represented by the Ministry of Employment and Poverty Reduction, the Federation of Trade Unions of Uzbekistan (FTUU) and the Confederation of Employers of Uzbekistan (CEU).

Established in 1990, the FTUU is the largest trade union in the country and includes 14 sectoral trade union organizations across all the major economic sectors, with over 6 million individual members. It has representative offices in all regions and in the Republic of Karakalpakstan.

The CEU is a young employers' organization, created in November 2018 by several employers' and business membership organizations, as an umbrella organization, with the mandate of representing employers at the national level.

In July 2019, the Republican Tripartite Commission on Social and Labour Issues (RTC) was established⁴⁹ to implement ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Regulations on the establishment of tripartite commissions at the local level (Republic of Karakalpakstan and all regions) have also been adopted.

Cooperation with ILO and other international organizations

Uzbekistan joined the ILO on 13 July 1992 and has ratified a total of 19 Conventions and 1 Protocol.

It has ratified 9 (out of 10) Fundamental Conventions, all Governance/Priority Conventions, including the ILO [Labour Inspection Convention](#), 1947 (No. 81) and the [Labour Inspection \(Agriculture\) Convention](#), 1969 (No. 129), both ratified on 19 November 2019, and 6 (out of 176) Technical Conventions. Uzbekistan has also ratified the ILO [Protocol of 2014 to the Forced Labour Convention](#), 1930, on 16 September 2019.

Uzbekistan did not ratify yet the ILO Fundamental [Occupational Safety and Health Convention](#), 1981 (No. 155).

The ILO work in Uzbekistan is mainly guided by the Decent Work Country Programmes signed with the country national tripartite constituents. The first one was signed in 2014, and was focused on the elimination of the worst forms of child labour and forced labour. The current one, [Uzbekistan Decent Work Country Programme 2021-25](#), was signed on 22 September 2021, and covers a broader range of development issues, building on the progress achieved by Uzbekistan in the implementation of the previous DWCP.

It is focused on the following four priorities:

- Improving the regulatory framework governing labour relations;
- Enhancing decent work and better employment opportunities for youth, women and vulnerable groups, generated by inclusive and equitable economic growth;
- Extending the access of the most vulnerable groups to equitable, inclusive and quality education and social protection; and
- Strengthening social dialogue and the institutional capacities of the social partners.

Within Outcome 1.2 (Labour law and workplace compliance mechanisms effectively applied) of the first priority area, the following key outputs are expected:

- Expanded access to effective legal protection for all workers through the improved enforcement of labour laws and the establishment/strengthening of mechanisms for the prevention and resolution of labour disputes; and

⁴⁹ Through the Cabinet of Ministers Decree No. 553, of 3 July 2019.

- Further modernization of labour inspection (assessment of labour inspection system; capacity development on labour inspection management and increasing competencies of new labour inspectors, improved coordination with other compliance mechanisms, new/improved advisory tripartite mechanisms).

Mandate of the labour inspection system

According to the provisions of the Article 9 of the Labour Code of the Republic of Uzbekistan, control and supervision of compliance with labour law and OSH regulations are exercised by:

1. Special authorized bodies and their inspectorates;
2. Trade unions.

Under the law⁵⁰, the main objectives of the Inspectorate are the implementation of state supervision and oversight over compliance by organizations, regardless of their legal form, of the requirements of the law in ensuring and protecting labour rights.

The mandate and legal competencies of the State Labour Inspectorate are defined in the legislation, in particular, in: the Labour Code of the Republic of Uzbekistan (Article 9); Law of the Republic of Uzbekistan "On Labour Protection" (Articles 28-29); Administrative Responsibility Code of the Republic of Uzbekistan (Article 255); Decree of the President of the Republic of Uzbekistan No. PP-3913, of 20 August 2018, "On measures to improve the structure of labour bodies and strengthen the system of protection of labour rights and labour protection of citizens"; Regulations on the SLI, defining its status, key responsibilities, functions and powers to exercise public monitoring and supervision of compliance with labour and labour protection legislation; and other legal acts containing norms of the labour law.

Moreover, the work procedures and the powers of the State Labour Inspectorate to exercise public monitoring and supervision in the world of work are subject to the Regulations on the SLI, approved by the RCM No. 1066, of 31 December 2018; the Regulations on the procedure for state expert review of working conditions, approved by the RCM No. 246, of 27 April 2017; and the Regulations on the investigation and registration of occupational accidents and other damage to the health of workers in the performance of their employment duties, approved by the Resolutions of the Government of the Republic of Uzbekistan No. 1066, of 31 December 2018 and No. 286, of 06 June 1997.

Functions of the labour inspection system

According to the Decree of the President of the Republic of Uzbekistan No. PP-3913, of 20 August 2018 and RCM No. 1066, of 31 December 2018, the main functions of the State Labour Inspectorate of the Minister of Employment and Poverty Reduction include:

- state supervision and control of compliance with legal provisions on labour, employment, OSH, and social protection;
- provision of advisory and methodological support to workers and employers on how to apply the legal provisions and ensure compliance with the labour and OSH legislation;
- to conduct analysis on labour relations and OSH, take part in the development and implementation of state programmes, regulations and other documents in the area of industrial relations and OSH, and to submit proposals for their improvement;
- to analyse and investigate occupational accidents;
- to carry-out awareness-raising campaigns;

⁵⁰ Resolution of the President of Republic of Uzbekistan No. PP-3913, of 2 August 2018.

- to take measures to prevent and eliminate forced labour, in articulation with other public and private entities.

It is worth mentioned, in this respect, that according to the Presidential Decision No. PP-3913, of 20 August 2018, the maximum time period that monitoring and law enforcement authorities may call upon inspectors to perform inspections is set at ten working days per month.

Scope of the labour inspection system

The State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan is “responsible for the state control and supervision of employers’ compliance with labour legislation, laws on employment, compulsory insurance of employers’ civil liability, rights of people with disabilities and other legal act on labour, OSH rules and labour standards”⁵¹.

Employers shall timely comply with the instructions of state labour inspectors and officials of other state bodies authorized to monitor and supervise compliance with labour legislation and other legal acts on labour.⁵²

Main legal competencies of the State Labour Inspectorate include:

- public monitoring and supervision of employers’ compliance with labour and labour protection legislation as well as with other regulatory acts containing labour law norms, through inspections, examinations, issuance of binding improvement notices, drawing up administrative offence reports within authorities, preparation of other materials (documents) on holding the perpetrators accountable in accordance with the legislation of the Republic of Uzbekistan;
- public monitoring and supervision of compliance with the established procedure for the investigation and registration of occupational accidents;
- public monitoring and supervision of the implementation of the rights of employees to compulsory state social security insurance against occupational accidents and occupational diseases, as well as of granting, calculation, and payment of temporary disability benefits at the expense of employers;
- public monitoring and supervision of the provision of state guarantees in the field of employment of the population with regard to reservation by employers of a minimum number of workplaces for the job placement of persons who are in need of social protection, face difficulties in finding work and are incapable of competing on equal terms in the labour market;
- consideration, under the legislation of the Republic of Uzbekistan, of administrative offence cases;
- informing and advising employers and employees on compliance with labour legislation and other regulations containing norms of labour law;
- consolidation of the practical application and analysis of the causes of violations of labour and labour protection legislation, as well as regulatory acts containing norms of labour law, and preparation of appropriate proposals for their improvement;
- analysis of the conditions and causes of occupational injuries and development of proposals for their prevention, participation in investigations of occupational accidents or conducting investigations as commission chairman;

⁵¹ Article 268 of the Labour Code of the Republic of Uzbekistan.

⁵² Article 25 of the Labour Code of the Republic of Uzbekistan

- state examination of working conditions in accordance with the procedure established by the Government of the Republic of Uzbekistan;
- informing the public about the identified violations of labour and labour protection legislation, as well as other regulatory acts containing norms of labour law; conducting outreach on labour rights of citizens;
- analysis of the circumstances and causes of identified violations of labour and labour protection legislation, as well as other regulatory acts containing norms of labour law; adoption of measures to eliminate them and restore the violated labour rights of citizens;
- identification and analysis of the causes of collective labour disputes, preparing proposals to remedy them;
- taking the necessary measures to duly involve qualified experts in order to: ensure the application of the provisions of labour and labour protection legislation, as well as of other regulatory acts related to occupational safety and health of workers at work; obtain information on the health and safety impact of the technologies applied and materials and methods used;
- reception from citizens and handling applications, letters, complaints, and other citizens' appeals concerning violations of their labour rights; adoption of measures to eliminate the identified violations and restore violated rights;
- exercising other powers in accordance with the laws and other regulatory acts of the Republic of Uzbekistan.

Other tasks under the remit of the State Labour Inspectorate comprise:⁵³

- exercise state supervision and control of compliance with provisions of the law in the areas of protection of labour rights of individuals, safe working conditions and occupational safety and health;
- conduct ongoing analysis of the state of occupational safety and health in the country, causes of work-related injuries and occupational diseases, and identify ways to remove them;
- conduct a systemic analysis of labour agreements and bylaws, orders issued by employers with regard to employment relations to identify whether they comply with the law;
- conduct ongoing monitoring and protect the rights of the parties to industrial relations as envisaged by the labour, employment and OSH laws;
- exercise state control of the quality of job certification for adequate working conditions;
- exercise state control of compliance with the law on social protection of persons with disabilities regarding conditions to be created for an unimpeded access to social infrastructure facilities and use of all types of transport, transportation lines, general communication means and information;
- jointly with ministries, agencies and civil society groups concerned, arrange for measures to be taken to prevent and eliminate forced labour including by bringing to justice any officers found guilty under the law;

⁵³ Resolution of the President of Republic of Uzbekistan No. PP-3913, of 2 August 2018 and Annex 3 of the Resolution 1066 of 31.12.2018

- provide advisory and methodological support to workers and employers (private entrepreneurs included) on how to apply the legal provisions and ensure compliance with the labour and OSH law and take preventive action against occupational accidents;
- conduct a large-scale awareness campaign among legal entities and individuals on the need to observe the labour rights of persons and ensure safe working conditions and occupational safety and health;
- take part in development and implementation of state programmes, regulations and other documents in the area of industrial relations and occupational safety and health, as well as proposals and policies to ensure the rights of persons to decent and safe working conditions.

The detailed procedures related to the effective implementation of the above tasks are regulated by the Articles 7 and 8 of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan (Appendix no. 3 of the Decree of the Cabinet of Ministers).

Structure and organization

The State Labour Inspectorate is a department established under the Ministry of Employment and Poverty Reduction of the Republic of Uzbekistan.⁵⁴

The state labour inspectorate operates as a decentralized structure, that performs its activities directly and through its regional inspectorates. Its organizational structure comprises: the State Labour Inspectorate (the central office of the Inspectorate), the State Labour Inspectorate of the Republic of Karakalpakstan, the State Labour Inspectorates of the Regional Employment Departments and of the Tashkent Employment Department (a total of 14).⁵⁵

In addition, Article 9 of the labour code foresees that the control and supervision of compliance with labour legislation and labour protection rules are carried out not only by specially authorized state bodies and their inspectorates, such as SLI, but also by trade unions, which raises increased concerns as regards the conditions and modalities under which the SLI collaborates with the TU labour inspection bodies, as well as regards the placement of the labour inspection system, in its entirety, under the supervision and control of a central authority, in accordance with Article 4 of ILO C81 and Article 7 of ILO C129, as recently observed by the ILO Supervisory Bodies⁵⁶.

At the same time, the Decree of the President of the Republic of Uzbekistan No. UP-5490, of 15 March 2019, "On Measures to Radically Improve the System for Protecting Business Activities and Optimizing the Activities of Prosecution Authorities", and the Decree of the President of the Republic of Uzbekistan No. PP-374, of 13 September 2022, established that coordination of inspections of business entities and monitoring of legality of their implementation by regulatory bodies is carried out by the Commissioner under the President of the Republic of Uzbekistan on the Protection of the Rights and Legitimate Interests of Business Entities.

It is established that that, in the framework of the exercise of its powers, the Commissioner for the Protection of Entrepreneurs' Rights:

- exercises control over compliance, by regulatory authorities, with the requirements of the legislation in the field of auditing the activities of business entities;
- considers and studies validity of applications, from regulatory authorities, on conducting inspections of the activities of business entities;

⁵⁴ Resolution of the President of Republic of Uzbekistan No. PP-3913, of 2 August 2018.

⁵⁵ Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan

⁵⁶ Cf. [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

- makes decisions on permitting or refusing to conduct inspections of the activities of business entities, as well as extending or rescheduling their terms;
- takes measures to hold accountable the guilty officials, of regulatory bodies, for violation of the law in the field of audits of business entities;
- ensures maintenance of unified accounting and reporting in the field of state control over the activities of business entities, as well as a unified law enforcement practice of regulatory bodies in this area;
- provides advisory support to regulatory bodies and business entities regarding the application of legal norms in the field of audits of business entities;
- participates in development and improvement of regulatory framework in the field of audits of business entities.

In addition, according to section 5 of the Presidential Decree No. UP-5490 of 15 March 2019, from 1 September 2018: (i) all inspections of the activities of business entities conducted by regulatory authorities are subject to mandatory registration in the Unified System of Electronic Registration of Inspections; (ii) inspections carried out without registration in the Unified System of Electronic Registration of Inspections are illegal; and (iii) from 1 April 2019, the coordination of inspections and control over the legality of their conduct are carried out by the Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities (hereinafter referred to as the authorized body).

Moreover, according to section 8 of the same Presidential Decree, the Ministry for the Development of Information Technologies and Communications, together with the Prosecutor General's Office, shall develop the Unified System for Electronic Registration of Inspections which allows: (i) the authorized body to study the validity of the decisions taken by the regulatory authorities to conduct inspections and issue a permit with a unique code for their conduct; (ii) to supervise the compliance of regulatory authorities with the procedure for conducting inspections established by law; (iii) the supervisory authorities to enter the results of the inspections carried out; and (iv) business entities to receive, upon their request, information about the inspection in the form of short messages (SMS), as well as via the Internet in real time.

Collaboration and cooperation

Besides the close cooperation with the Inspectorate of the Federation of the Trade Unions of Uzbekistan (FTUU), stemming from their mandate overlap (under Article 9 of the Labour Code of the Republic of Uzbekistan), SLI also cooperates with other state entities, as indicated by law, including with the Ministry of Public Health of the Republic of Uzbekistan, the Ministry of Construction of the Republic of Uzbekistan, the Uzbek Agency for Standardisation, Metrology and Certification, the State Inspectorate for Exploration Supervision, Operations Safety Supervision of Industry, Mining and Utilities Sector under the Cabinet of Ministers of the Republic of Uzbekistan ("Sanoatgeokontekhnazorat"), and the State Inspectorate for Supervision in the Electric Power Industry.⁵⁷

In addition, the State Labour Inspectorate also collaborates and cooperates with the Prosecutor General's Office of the Republic of Uzbekistan, the Inspection for Control of Mining, Geological and Industrial Safety under the Ministry of Mining industry and Geology of the Republic of Uzbekistan, the Confederation of Employers of the Republic of Uzbekistan (CEU), the Commissioner under the President of the Republic of Uzbekistan on the Protection of the Rights and Legitimate Interests of Business Entities (Business Ombudsmen), and others.

⁵⁷ Art 10 of Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan

SLI cooperates with FTUU and CEU at the national, local and enterprise levels. Examples of such cooperation include the implementation of policies in the sphere of labour and labour protection, coordination of regulatory documents, investigations of occupational accidents, awareness-raising activities, and implementation of joint activities during the cotton campaign.

It is important to note, however, that according to section 38 of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan (Regulations on the SLI)⁵⁸, the term of engagement (secondment) of inspectorate personnel to inspections (investigation teams) shall be no more than ten days per month, which can undermine the desired cooperation between labour inspection and other Government services and public or private institutions engaged in similar activities.

Status and conditions of service of labour inspectors

According to the Presidential Decision No. PP-3913/2018, state labour inspectors hold the status of public officials.

Procedure for remuneration and material incentives for employees of the Inspectorate are established by the Regulations on the State Labour Inspectorate of the Ministry of Employment and Poverty Reduction of the Republic of Uzbekistan. Wages and additional incentives, premiums and bonuses are funded by the State Budget of the Republic of Uzbekistan.

The official salary of employees of labour bodies are defined by reference to the approved categories of the Unified Wage Rate Schedule.

According to the Regulations on the SLI, inspectors at the State Labour Inspectorate are provided with monthly payments, amounting to twice the minimum wage for the reimbursement of food expenses, and monthly payments, amounting to twice the minimum wage, for the reimbursement of travel expenses, except for inspectors who have access to inspectorate vehicles and inspectors of the regional offices (which are not offered reimbursements for travel or food expenses).

In addition, according to section 39 of the Regulations on the SLI, the heads of labour bodies and employees of the inspectorate benefit from monthly bonuses amounting up to 10 percent of the amount of fines imposed for administrative violations, not exceeding 100 minimum wages. In this respect, the CEACR recently observed⁵⁹ that “providing for the payment of incentive bonuses based on the amount of fines collected can affect the impartiality of labour inspectors in the performance of their duties and can create a situation of conflict of interest for labour inspectors, in violation of Articles 6 and 15(a) of Convention No. 81 and Articles 8 and 20(a) of Convention No. 129”.

The Minister of Employment and Poverty Reduction was empowered to establish personal wage supplements for high performing workers, of two times their official salary, to be financed at the expense of extra-budgetary funds.⁶⁰

According to the information provided by the Ministry of Employment and Labour Relations of the Republic of Uzbekistan (in reply to the Annexed Questionnaire), the level of remuneration of inspectors is very low (at the district level approx. 200 USD). In accordance with the Decree of the President of the Republic of Uzbekistan “On measures to implement administrative reforms of the new Uzbekistan” dated 21.12.2022 No. UP-269, large scale work is being carried out in Uzbekistan to recognize all public administrative bodies, as well as inspectorates that have the authority to exercise state control.

⁵⁸ Vide Annex 3 of the Decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 1066, of 31 December 2018.

⁵⁹ Vide [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), on the application of ILO C81 and C129 by Uzbekistan.

⁶⁰ Art 9 of the UZB President resolution 3913

Recruitment of labour inspectors

Labour inspectors are recruited on the basis of the principles of principles of transparency, equality, merit and ability.

Standard-issue certificates of admission to inspections of business entities are issued to officials of the Inspectorate by the Ministry based on the results of the relevant attestation.

In accordance with the legislation, a probation period of up to three months is established for persons who are employed by the Inspectorate for the first time.

Persons undergoing a probation period may be dismissed from the Inspectorate in accordance with the procedure established by law.

Number of labour inspectors

According to the Annual Report "On the Implementation of Public Monitoring and Supervision of Compliance with Labour Legislation in the Republic of Uzbekistan in 2022" of the Ministry of Labour and Poverty Reduction of Uzbekistan, the staff of the State Labour Inspectorate of the Republic of Uzbekistan is 348 employees, including one Head, two Deputy Heads, 14 Heads of Regional Inspectorates, 28 Deputy Heads of Regional Inspectorates, one Chief State Working Conditions Expert, and a total number of 302 labour inspectors: 93 State Technical Labour Protection Inspectors (OSH inspectors), and 209 State Legal Labour Inspectors (labour relations inspectors).

Between January 2021 and December 2022, the number of labour inspectors of the State Labour Inspectorate decreased by 46 (from 348 to 302, corresponding to a decrease of 13.2%). Considering an employed population of about 13,8 million people, each state labour inspector serves, on average, around 45,814 workers.

The labour inspectorate of the Federation of Trade Unions accounts for a total staff of 101 employees: 3 managers, 5 administrative staff and a total of 93 labour inspectors: 41 on OSH, and 52 on labour relations.

Gender equality

According to the available information, there are no legal provisions or other regulations regarding gender equality on recruiting, appointing in managerial positions or performing activity for the labour inspectorate of the Republic of Uzbekistan.

The latest information provided by the Ministry shows that 96.4% of state labour inspectors are men, and only 3.6% are women. There is no information about the number of the women appointed in managerial positions.

Other duly qualified technical experts and specialists

According to the Article 29 of the Law on labour protection, State examination of working conditions is carried out by state experts on working conditions of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan, in accordance with the regulations approved by the Cabinet of Ministers of the Republic of Uzbekistan, in order to assess:

- quality of certification of workplaces on working conditions;
- correctness of providing employees with guarantees and compensations for work with harmful and (or) dangerous working conditions;
- actual working conditions of workers.

To discharge their duties, State experts on working conditions have the right to:

- request and receive from managers and other officials of organizations documents, explanations, information necessary for the performance of supervisory and control functions;
- present binding instructions on eliminating violations of labour protection legislation to heads and other officials of organizations;
- make representations on taking measures against officials guilty of violation of labour protection legislation;
- prohibit use of personal protective equipment and collective protective equipment that do not meet labour protection requirements;
- bring in due manner to administrative responsibility those responsible for violating the requirements of labour protection legislation;
- suspend activities of organizations or the operation of equipment that does not meet the requirements of labour safety and endangers the life or health of workers, in the manner prescribed by law;
- participate in commission for commissioning of completed construction, reconstruction of facilities and, if they do not meet the requirements of legislation on labour protection, issue relevant conclusions;
- act as experts in court in claims for violation of labour protection legislation and compensation for harm caused to the life and health of workers in the workplace.

Training of labour inspectors

Upon admission into the State Labour Inspectorate, labour inspectors undergo a mandatory two-week induction course at the Republican Training Courses for Labour Officials and, afterwards they are expected to participate in national upskilling courses at least once every three years.

In addition, and according to the Resolution of the Cabinet of Ministers No. 246, of 27 April 2017, state technical inspectors, state working condition experts, and occupational safety specialists in trade union organization have to undergo a compulsory 36 hours of occupational safety training.

Performance appraisal of labour inspectors

In order to fulfil the tasks assigned, the Head of the Inspectorate bears personal responsibility for the timely and proper execution of the tasks and functions assigned to the Inspectorate, as well as due implementation of the rights granted and the duties assigned, and organizes efficient assignment of responsibilities among Inspectorate employees, including the engagement of individual employees who perform certain functions in other work assigned to the Inspectorate.

Officials of the Inspectorate are liable, in accordance with the procedure established by law, for the ineffective performance of tasks and functions assigned to them, as well as for misconduct and negligent omission. Disciplinary penalties are imposed upon employees of the Inspectorate for non-fulfilment or improper fulfilment of duties or on grounds of misconduct.⁶¹

Material means available for labour inspectors

As regards the allocation to labour inspectors of the material means and other facilities and resources (e.g.: transport, premises, desktops, laptops, tablet, mobile phones) necessary for the effective discharge of their duties, the MLPR has recognized its insufficiency.

⁶¹ *Ibidem.*

Powers of labour inspectors

According to the Article 10 of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan, the labour inspectors have the right to:

- conduct in-house review of the compliance with legislation in the area of observance and protection of labour rights and occupational safety and health of the citizens;
- issue binding warnings to public and other bodies, organizations and their officials, as well as to citizens who are employers;
- conduct inspections and examinations of compliance of public organizations and institutions with the requirements of legislation on labour, labour protection, and employment of the population;
- conduct inspections of compliance with the requirements of legislation on labour, labour protection, and employment on the basis of the decision of the authorized body coordinating inspections of the activities of business entities;
- conduct, on the basis of appeals of individuals and legal entities, as well as written requests of the state tax service bodies, without prior coordination with authorized bodies, unannounced short-term (not to exceed one working day) inspections of organizations, regardless of their legal forms of organization, as to their compliance with requirements of legislation on employment, labour, and labour protection, without interference with the financial, economic, and any other activities of business entities that are not related to the inspection item;
- draw up inspection reports and issue binding instructions for managers and other officials of organizations to remedy violations of the law in accordance with the subject of the public monitoring and supervision in the areas of labour, employment, and labour protection, according to the form in the Appendix No. 1 to these Regulations;
- investigate (participate in investigations of) occupational accidents and other damages to the health of workers arising out of their employment duties;
- carry out legal proceedings on administrative violations, address cases within the competence of the Inspectorate, and apply administrative penalties;
- examine, in accordance with the procedure established by law, documents and other materials related to the compliance with legislation on labour, labour protection, employment of the population, compulsory civil liability insurance of the employer, and social security of persons with disabilities;
- monitor the execution of binding instructions issued to managers and other officials of organizations to remedy violations of the law in accordance with the subject of the public monitoring and supervision in the areas of labour, employment, and labour protection;
- suspend, in accordance with the established procedure, the effect of orders and other acts of organizations that contradict the legislation on labour and labour protection, employment of the population, and compulsory civil liability insurance of the employer, and, where it is required, issue instructions on their cancellation in accordance with the established procedure;
- suspend the activities of organizations or the usage of equipment that fail to meet labour protection requirements and create health or life hazards to the employees, in accordance with the procedure established by law;

- prohibit the use of equipment for the personal and collective protection of employees that has no certificate of conformity or declaration of conformity, or fails to meet labour protection requirements;
- participate in the commissioning of the completed construction and reconstruction projects and, when revealing non-compliance with labour protection legislation requirements, issue relevant opinions;
- commence administrative proceedings on violations of the requirements in respect of provisioning the persons with disabilities with unhindered access to social infrastructure facilities, as well as to railroad, airline, water, and interurban transport, all kinds of urban and suburban public transportation, means of public communication, and information;
- prepare and submit to the law enforcement agencies and to the court the documents related to holding the responsible persons liable, including criminally, in accordance with the legislation of the Republic of Uzbekistan;
- hold the responsible officials administratively liable, in accordance with the procedure established by law, together with preparation of a protocol on violation of the law and imposition of monetary fines for violation of legislation on labour and employment, on labour protection and compulsory civil liability insurance of the employer, in accordance with the forms as set forth in Appendices No. 2 and No. 3 to these Regulations;
- issue warnings to public and other bodies, organizations and their officials, as well as to citizens who are employers, on the impermissibility of violations of legislation on labour and employment, labour protection, compulsory civil liability insurance of the employer and social protection of persons with disabilities, should there be an indication of planned offenses, while providing clarification as to responsibility for committing such offenses;
- pass on recommendations to superior organizations and law enforcement agencies on the elimination of violations of legislation on labour and employment, labour protection, compulsory civil liability insurance of the employer, and social security of persons with disabilities, as well as conditions contributing to their occurrence, with proposals for adoption, in accordance with the procedure established by law, of measures in relation to organizations and officials guilty of violating the aforementioned legislative acts;
- file a lawsuit for the consideration of a labour dispute between an organization and an employee (employees) with a court or another authority on issues within the competence of the Inspectorate;
- act as expert witnesses in court on claims of violation of labour and labour protection legislation, as well as on issues of compensation for damage caused to the health or life of the employees;
- develop and submit to the Ministry the proposals for the improvement of the current legislation in accordance with the subject of the public monitoring and supervision;
- consider, in accordance with the procedure established by law, appeals of workers and other subjects of labour relations as they pertain to legislation on labour and employment, labour protection, and compulsory civil liability insurance of the employer;
- invite representatives of organizations to partake in the consideration of appeals of employees and other subjects of labour relations;
- conduct the examination of working conditions in organizations and issue an examination certificate in the manner and within the time frame established by law;

- partake in the work of the republican examination boards and administrative and economic bodies for conducting appraisal of senior officials and specialists of organizations in respect of labour protection issues;
- submit proposals as to the suspension of persons who failed to undergo training, instruction, and knowledge assessment on labour protection in accordance with the established procedure.

In addition, according to Article 28 of the Law "On Labour Protection", State supervision and monitoring of compliance with labour protection requirements is carried out by state technical labour inspectors, which have the right to:

- request and receive from managers and other officials of organizations documents, explanations, information necessary for performance of supervisory and control functions;
- conduct special investigations or participate in the investigation of industrial accidents;
- present binding instructions on eliminating violations of labour protection legislation to heads and other officials of organizations;
- make representations on taking measures against officials guilty of violation of labour protection legislation;
- prohibit use of personal protective equipment and collective protective equipment that do not meet labour protection requirements;
- bring in due manner to administrative responsibility those responsible for violating the requirements of labour protection legislation;
- suspend activities of organizations or the operation of equipment that does not meet the requirements of labour safety and endangers the life or health of workers, in the manner prescribed by law;
- participate in commission for commissioning of completed construction, reconstruction of facilities and, if they do not meet the requirements of legislation on labour protection, issue relevant conclusions;
- act as experts in court in claims for violation of labour protection legislation and compensation for harm caused to the life and health of workers in the workplace.

Notwithstanding the above, the free initiative of the state labour inspectors to carry out inspection visits in Uzbekistan is severely restricted by the moratorium on inspection visits, established by section 4 of Presidential Decree No. UP-5490 of 15 March 2019, according to which planned visits of inspection visits that are unrelated to an enterprise's financial management activities and inspection visits of an enterprise's activities conducted as part of a monitoring procedure can no longer be conducted.

At the same time, in accordance with the Decree of the President of the Republic of Uzbekistan No. UP-6314, of 15 September 2021, the Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities launches an information system ("Unified State Control"), in order to coordinate and ensure openness of the processes of checking the activities of business entities, as well as to maintain electronic registers of state control functions, mandatory requirements, and officials entitled to conduct inspections of the activities of business entities.

It also establishes that, from 1 November 2022:

- all inspections carried out in the activities of business entities have to be prior registered in the information system "Unified State Control". At the same time, conducting inspections in the activities of business entities that are not registered in this system is considered illegal;

- the results of inspections carried out in the activities of business entities, as well as information on preventive measures have to be entered into the information "Unified State Control" system within three days from the date of completion of the inspection or preventive measures.

The aforesaid legal act also establishes a procedure according to which the supervisory authorities:

- notify the business entity of the start of inspections carried out on the basis of the results of the "risk analysis" system no later than 10 working days in advance;
- are not entitled to re-inspect the subject and object of the previously verified period of activity of the business entity or demand documents previously presented by the business entity;
- carry out preventive measures for business entities on the basis of schedules agreed with the Commissioner for the Protection of the Rights of Entrepreneurs, in the form of seminars, public discussions, speeches in the media, organizing events "open doors", as well as by providing handouts and manuals, sending recommendations and messages without interference in the financial and economic activities of business entities;

In accordance with the above procedure, business entities have the right not to allow officials of regulatory bodies to enter their territory to conduct an inspection in cases where:

- the order to conduct an inspection is not issued in the prescribed manner;
- the check has not been coordinated in accordance with the established procedure with the Commissioner for the Protection of the Rights of Entrepreneurs or he has not been notified of this;
- there is no special certificate giving the right to check the activities of business entities;
- they evade entering information into the Book of Registration of Inspections;

In addition, according to the said Decree No. UP-6314, and starting from 1 January 2023, regulatory authorities are prohibited from conducting inspections of the activities of business entities for functions that are not included in the register of state regulatory functions in the Unified State Control information system.

Moreover, the Ministry of Justice, together with the Commissioner for the Protection of the Rights of Entrepreneurs, the Chamber of Commerce and Industry and regulatory authorities, were expected, by 1 November 2022, to submit proposals to the Council of the Agency for Strategic Reforms to reduce state control functions and inspections.

Obligations and incompatibilities

Labour Inspectorate officials are required to comply with the rules of professional ethics approved by the Minister of Employment and Labour Relations of the Republic of Uzbekistan.

In order to prevent manifestations of corruption and other abuses, a systematic study of the personal and business qualities of an employee and the effectiveness of his work is carried out, as well as the formation of a reserve of personnel with qualifications and experience in various areas of activity of the Inspectorate and the rotation of officials.

Sanctions

State labour inspectors have the right to carry out legal proceedings on administrative violations and apply administrative penalties, regarding cases of violation within their sphere of competence.

According to section 255 of the Administrative Liability Code, labour inspectors have the right to consider administrative offences and impose administrative penalties. At the same time, according

to section 10 of the Regulations on the SLI, in order to perform the tasks and functions assigned to them, labour inspectors have the right to:

- carry out proceedings in cases of administrative offences, to consider cases within their competence and to apply administrative penalties; and
- prepare and send to law enforcement agencies and the courts, documents for bringing offenders to justice, including for criminal liability, in accordance with national legislation.

Furthermore, the Labour Code, the Administrative Liability Code and the Law on OSH provide for penalties for violations of provisions pertaining to conditions of work and occupational safety and health.

In addition, inaction on instructions, notices and other acts issued by the State Labour Inspectorate as well as any interference in the activities of the State Labour Inspectorate and its employees in order to obstruct the lawful discharge of their duties and responsibilities are prohibited and shall entail liability as prescribed by law.⁶²

State labour inspectors, when determining the measures taken in response to detected violations within the exercise of their duties of public monitoring and supervision in the area of labour and labour protection, are obliged to consider the appropriateness of the measures applied to the gravity of violations, their potential hazard (to the life and health of people, animals, plants, environment, and homeland security), the threat of natural or manmade emergencies, as well as the need to prevent unwarranted restriction of the rights and legitimate interests of citizens, including individual entrepreneurs, and legal entities.

Labour inspection policy, planning, monitoring, evaluation and reporting.

According to the Ministry's reply to the questionnaire, Labour inspection policy is annually developed and implemented to provide clear direction and guidance on organization's mandate and priorities and the Labour Inspectorate monitors the activities of state inspectors on a monthly basis. Proposals aimed at improving the activities of the Labour Inspectorate are developed based on the results of monitoring, according to the Ministry.

As for reporting, and besides the annual report on the activities of the labour inspectorate, Article 21 (g) of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan, the head of the labour inspectorate has to submit to the Minister of Employment and Labour Relations of the Republic of Uzbekistan a monthly report.

There are no available information, however, as regards the mentioned policy or regarding any activity's plan, labour inspection strategy, or performance evaluation of the service and/or of the labour inspectors.

⁶² Art 538 of the Labour Code of the Republic of Uzbekistan

Activities of the labour inspectors

The number, nature and scope of inspection visits carried out by labour inspectors in Uzbekistan, during 2020 and 2021, were as follows:⁶³

Inspection visits	State Labour Inspectorate		FTUU Inspectorate		Total	
	2020	2021	2020	2021	2020	2021
Nature						
First visits	19,226	27,471	13,156	2,096	32,382	29,567
Follow-up visits						
Total	19,226	27,471	13,156	2,096	32,382	29,567
Scope						
OSH	19,226	27,471	7,160	1,895	26,386	29,366
Labour relations			5,996	201	5,996	201
Others						
Total	19,226	27,471	13,156	2,096	32,382	29,567

The analysis of the data provided on the number, nature and scope of inspection visits carried out by labour inspectors in Uzbekistan during 2020 and 2021 shows that, although the number of inspection visits carried out by state labour inspectors increased about 43% in 2021, the state labour inspectorate did not perform any inspection visits on labour relation issues during 2020 and 2021. It also leads to the conclusion that all inspection visits carried out during 2020 and 2021 were first inspection visits. No follow-up inspection visits were performed during this period.

In addition, and considering an average number of state labour inspectors of 325.5 during 2021 (348 in January and 303 in October) and the number of inspection visits carried out in 2021 (27,471), one can conclude that state labour inspectors performed, on average, 7.7 inspection visits per month.

⁶³ According to the information offered by the Ministry of Labour, Migration and Employment of Population of the Republic of Tajikistan and the Federation of Independent Trade Unions of Tajikistan, through the answers to Questionnaire for the Comparison and analysis of the of labour inspection systems of Romania, Tajikistan and Uzbekistan (Annex II to this Report).

MAIN GAPS AND SHORTCOMINGS IDENTIFIED

The main gaps and shortcomings of the labour inspection systems of Tajikistan and Uzbekistan, when compared with the most relevant applicable international labour standards⁶⁴, ILO Guidelines on General Principles of Labour Inspection and best practices on labour inspection, are as follows:

Tajikistan

Mandate, functions and scope of the labour inspection system

Section 2(5) of the Regulations of the State Inspection Service for Labour, Migration and Employment (SILME), approved by the Government Decision No. 299, of 3 May 2014 (and amended in 2020), entrusts labour inspectors with the following additional functions:

- promoting the effectiveness of collective bargaining, activities of consensus committees, mediation and labour arbitration;
- monitor and inspect compliance with legislation on environmental, voluntary and internal migration;
- assistance in regulating the employment of foreign migrants;
- promotion of employment, the organization of the labour market, and other tasks contributing to the development of matters related to labour, migration and employment.

Besides being contrary to Paragraph 3 of ILO Recommendation No. 20 and Paragraph 8 of ILO Recommendation No. 81, section 2(5) of SILME Regulations is not in conformity with Article 3(2) of ILO C81, as already observed by CEACR in its [General Observation](#) of 2020, because the exercise of those additional functions is likely to interfere with the effective discharge of their primary duties or to prejudice the authority and impartiality which are necessary to inspectors in their relations with employers and workers, as also noted by the ILO CEACR in a number of specific observations to Tajikistan regarding this issue⁶⁵.

Structure and organization

Although SILME is formally under the supervision and control of the Prosecutor General's Office of the Republic of Tajikistan, in practice it is also required to report to multiple bodies, including the Ministry of Labour, Migration and Employment of Population in which structure it is integrated and the Council for the Coordination of the Activities of Inspection Bodies (sections 29 and 37 of the Law No. 1269, on Inspections of Economic Entities, last amended in 2020). The latter, besides a coordinating role between the SILME and the trade union inspectorate, has also a supervision role over the SILME, reviewing annual inspection body reports, with an annual assessment of the effectiveness and efficiency of inspections, and ensuring that inspection bodies comply with inspection rules (section 6 of the Law No. 1269). In addition, the Labour Inspectorate of the Federation of Independent Trade Unions of Tajikistan (FITU) also exercises public control over compliance with labour protection standards and rules, in accordance with Article 357 of the Labour Code, Trade Unions Law, and the Regulations on the Trade Union Labour Inspectorate (approved by a decision of the General Council Executive Committee of the FITU).

The duality of inspection functions assumed by and the different rules applying to state and trade union labour inspectorates, as well as the apparent overlap of supervisory and control functions

⁶⁴ In particular: [Labour Inspection Convention](#), 1947 (No. 81); [Labour Inspection \(Agriculture\) Convention](#), 1969 (No. 129); [Protocol of 1995 to the Labour Inspection Convention](#), 1947 (P81); [Labour Inspection Recommendation, 1947](#) (No. 81); and [Labour Inspection \(Agriculture\) Recommendation, 1969](#) (No. 133).

⁶⁵ Cf. the following Direct Requests (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#); [adopted 2016, published 106th ILC session \(2017\)](#); [adopted 2014, published 104th ILC session \(2015\)](#); [adopted 2013, published 103rd ILC session \(2014\)](#); [adopted 2012, published 102nd ILC session \(2013\)](#).

performed by the Prosecutor's Office, Ministry of Labour, Migration and Employment of Population, and by the Council for the Coordination of the Activities of Inspection Bodies, raise concerns as regards the placement of labour inspection under the supervision and control of a central authority, as provided for by Article 4 of ILO C81, and the homogeneity of the application of legal provisions across the entire country, as already observed by the ILO CEACR⁶⁶.

Status and conditions of service of labour inspectors

According to section 37(1) of Law No. 1269, the performance of an official of an inspection body is to be assessed on the basis of a criteria that includes the feedback from the inspected economic entity as regards the official. This situation, which is likely to compromise the impartiality and independence of labour inspectors in the performance of their duties, is contrary to Article 6 of ILO C81, according to which the conditions of service of the labour inspection staff should ensure their independence from improper external influences, as already observed by the ILO CEACR⁶⁷.

In addition, Article 19(7) of Law No. 1269, foresees that, in case the results of an unscheduled inspection discover significant shortcomings in the operations of a business entity in which a scheduled inspection has been conducted, the official who conducted the scheduled inspection shall be held accountable, which may also compromise the impartiality and independence of labour inspectors in the performance of their duties and, as such, raises concerns on its conformity with the requirements of Article 6 of ILO C81.

Number of labour inspectors

Considering a total employed population of 2,533,200⁶⁸, and the number of state labour inspectors (48), one state labour inspectors serve, on average, 52,775 workers.

Considering the importance of the duties which inspectors have to perform (in terms of the number, nature, size and situation of the workplaces; number and classes of workers employed; and number and complexity of the legal provisions to be enforced), as well as the material means available for inspectors, and the practical conditions under which visits of inspection must be carried out, as foreseen in Article 10 of C81, the number of state labour inspectors (48), representing a ratio of one state labour inspector per 52,775 workers, appears to be insufficient. The latter is somehow reinforced by a rather low number of inspections visits carried out by SILME in 2021 (2,588), which, although representing an increase of about 34% in relation to the precedent year, represents, nonetheless, an average number of around 216 inspection visits per month.

Performance appraisal of labour inspectors

As mentioned above, the performance of an official of an inspection body is to be assessed on the basis of a criteria that includes the feedback from the inspected economic entity as regards the official, which may put at risk the impartiality and independence of labour inspectors in the performance of their duties, and is contrary to Article 6 of ILO C81, as noted by CEACR⁶⁹.

Powers of the labour inspectors

Notwithstanding the powers of the state labour inspectors, provided for in Appendix 1 of the Government Resolution No.299, of 3 May 2014, the free initiative of the state labour inspectors for carrying out inspection visits in Tajikistan is severely restricted by the current ban on inspection visits of new businesses during the first two years of their operation (except for business entities

⁶⁶ *Vide* the following Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

⁶⁷ *Ibidem*.

⁶⁸ Data provided by the Federation of Independent Trade Unions of Tajikistan in its Questionnaire.

⁶⁹ *Cf.* Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

with a high degree of risk), as foreseen on Articles 16, 22(4), and 23 of the Law No. 1269, of 25 December 2015, which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020.

In addition, Law No. 1269 imposes other serious limitations on the powers and activities of the state labour inspectors, which are contrary, *inter alia*, to Articles 12 and 16 of ILO C81, including with regard to:

1. The limitation of the power of state labour inspectors to undertake inspection visits without previous notice (Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24), as already observed by CEACR⁷⁰. In this respect, Article 24(1) provides that "*Notification in writing shall constitute the principal prerequisite for conducting an inspection*".
2. The limitation of the power of labour inspectors to conduct inspection visits at any hour of day or night as, according to Article 26(5), "*Inspections shall be conducted solely during the operating hours and workdays of the business entity, except for unscheduled inspections*", which raises concerns regarding Article 12(1a) of ILO C81.
3. The need, prior to conduct an inspection visit, to undergo a procedure with significant restrictions (which is contrary to Article 12(1) of ILO C81, as observed by CEACR in its [General Observation](#) of 2020), to:
 - a. Verify one of the grounds to carry out an inspection visit, provided for in Article 19:
 - i. Written request of the business entity;
 - ii. Application to inspection agencies and submission of a request from physical persons, legal entities, or authorized state bodies concerning either the fact or high probability of causing grave harm to people's life and health, the environment, or national security, as well as the occurrence of natural or industrial emergency situations;
 - iii. Request of the Government of the Republic of Tajikistan, particularly in order to prevent emergency situations;
 - iv. In the event of a criminal case.

It is worth noting that the ground for carrying out an inspection visit must be inscribed in the Inspection Register (Article 13(4)) and in the previous notice to employer (Article 24(2)), thus giving intimation to the employer or his representative that the inspection visit is made in consequence of the receipt of a complaint, in contradiction to Article 15(c) of ILO C81.

Moreover, according to Article 19(3) of the Law 1269, conducting unscheduled inspections on other grounds than the ones foreseen on Article 19 of the Law is prohibited, which is contrary to Articles 12(1) and 16 of ILO C81.

- b. Have a decision to conduct the inspection visit signed, with the indication of its scope, which cannot be changed (Article 12);
- c. Register the inspection visit in the Inspection Register (Article 13);
- d. Notify the employer about the inspection visits, at least five working days in advance (which is contrary to Article 12(1a) of ILO C81), with the obligation to attach several information (Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24), including:

⁷⁰ Cf. Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

- i. The name of the inspector;
 - ii. The grounds for conducting the inspection;
 - iii. The matter, purpose, and facility to be inspected;
 - iv. The starting and ending dates for conducting the inspection;
 - v. List of control questions (checklists) with which inspections have to be conducted.
4. The severe limitation on the frequency of inspections (which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020), through:
- a. The limitations on conducting additional (Article 20) and repeated (Article 21) inspections;
 - b. The restrictions imposed by the procedure for conducting inspection visits (e.g., grounds foreseen in Article 19); and
 - c. The fact that the frequency of scheduled inspection visits is defined in an annual scheduled inspection plan, approved by the head of the central inspection body with the consent of the Council for the Coordination of the Activities of Inspection Bodies, and drawn up with due regard for the inspection intervals established for each category of risk in accordance with the degree of risk of each specific business entity (Article 18). Accordingly, and depending upon the degree of risk, scheduled inspections shall be conducted at the following intervals (Article 22(2)):
 - i. No more often than twice each year for business entities with a high degree of risk;
 - ii. No more often than once in three years for business entities with a moderate degree of risk;
 - iii. No more often than once in five years for business entities with an insignificant degree of risk.
5. Limitations on the duration of the inspection visits (which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020). According to Article 26(3), *"Inspection of the operations of business entities shall continue no more than ten workdays for major enterprises, no more than five days for medium-size enterprises, and no more than two workdays for small enterprises"*.
6. Limitations on the scope of the inspection visits, by:
- a. Requiring the concrete definition of the scope of the inspection visit (which cannot be changed during the inspection visit, even if the situation at the workplace do so advise) prior to initiate the inspection visit (Articles 13(4), 18(6), 19(2) -19(5), 22(6), 24(2), 30(1), 32(1), and 34).
 - b. Establishing the obligation of the state labour inspectors to conduct inspection visits on the basis of specific Lists of Control Questions, or checklists, approved by inspection agencies (Article 25), which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020. Inspection of the operations of a business entity shall be carried out in keeping with the list of control questions, and departures from its guidelines are prohibited (Article 25(3)). The list of control questions with which inspections are conducted shall be delivered to the business entity simultaneously with the notification of inspection. Failure to deliver the list of control questions to the business entity simultaneously with the notification of inspection entails invalidity of decisions based on the results of inspection (Article 25(3)). In addition, according to Article 19(5), inspection of matters which are not grounds for conducting the unscheduled inspection and are not stipulated in the list of control questions is prohibited

7. The limitation of the power of state labour inspectors to take measures with immediate executory force in the event of serious and imminent danger to the life, health or safety of the workers, which raises concerns as regards Article 13(2) of ILO C81 (as already noted by the CEACR⁷¹), namely to suspend works, by:
 - a. Limiting the temporary suspension to a maximum of three months (Article 30(4)); and
 - b. Providing for the suspension of the execution of such decision until a decision has been reached on the merits its appeal, as foreseen in Article 43(4).

Labour inspection policy, planning, monitoring, evaluation and reporting

Although the Government has communicated to ILO the Annual Report on Labour Inspection 2020–21, with detailed information as regards the requirements foreseen in Article 21(a), (b), and (d)–(g) of the ILO C81, this report does not contain, however, statistics of workplaces liable to inspection and the number of workers employed therein, as foreseen in Article 21(c) of the Convention, and noted in Observation (CEACR) - adopted [2021](#), published 110th ILC session (2022), regarding the application of ILO C81 by Tajikistan.

Activities of labour inspectors

The analysis of the data provided on the number, nature and scope of inspection visits carried out by labour inspectors in Tajikistan during 2020 and 2021, allows concluding that the number of labour inspection visits conducted by SILME increased 34% during 2021, although still presenting a rather low number of inspection visits per year (2,588) and per month (216 on average), which seems to be a result of the severe ongoing restrictions on the performance of inspection visits.

The fact that only 9% of the inspection visits conducted by SILME in 2021 were focused on OSH is other aspect of concern, considering that ensuring the fundamental right to a safe and healthy working environment falls under the remit of SILME, as foreseen in Article 3 of ILO C81.

Considering the number of state labour inspectors (48) and the number of inspection visits carried out by the State Inspection Service in 2021 (2,588), one can conclude that state labour inspectors performed, on average, 4.9 inspection visits per month, which raises concerns as regards the adherence to the general principle that most of inspectors' time should be devoted to visiting workplaces, helping workers and employers improving the working environment, as foreseen on paragraph 5.2.3 of the ILO [Guidelines on general principles of labour inspection](#) and on paragraph 8 of the ILO [Labour Inspection Recommendation](#), 1923 (No. 20), and appears to reflect the negative impact of the mentioned restrictions and limitations to the free initiative of labour inspectors to carry out inspection visits.

Uzbekistan

Mandate, functions and scope of the labour inspection system

The Presidential Decree No. UP-5490, of 15 March 2019, establishes a *moratorium* on inspection visits, including on labour inspection visits, preventing the labour inspection system from effectively discharge its duties of improving working conditions. According to the ILO CEACR⁷², this practice *constitutes a serious violation of Conventions Nos. 81 and 129*. In this respect, Tajikistan

In addition, the Presidential Decision No. PP-3913, of 20 August 2018, by imposing a maximum time period that monitoring and law enforcement authorities may call upon inspectors to perform

⁷¹ *Vide* Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

⁷² *Vide* CEACR [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions; and [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

inspections is set at ten working days per month, besides putting into question the general principle, according to which most of labour inspectors' time should be devoted to visiting workplaces, as foreseen on paragraph 5.2.3 of the ILO [Guidelines on general principles of labour inspection](#) and in paragraph 8 of the ILO [Labour Inspection Recommendation](#), 1923 (No. 20), is also likely to compromise the ability of labour inspectors to discharge their main duties (set forth in Article 3 of ILO C81 and Article 6 of ILO C129), as noted by [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

Structure and organization

Following Article 9 of the Labour Code, which foresees that the control and supervision of compliance with labour legislation and labour protection rules are carried out by specially authorized state bodies and their inspectorates and by trade unions, the Presidential Decision No. PP-3913/2018, established the State Labour Inspectorate (SLI) under the Ministry of Employment and Labour Relations; and the FTUU, following Article 44 of the Trade Union law, of November 2019, established a labour inspectorate.

In this context, where there is an overlap between the labour inspection functions of the State Labour Inspectorate and of the FTUU Inspectorate, serious concerns arise as regards the conditions under which trade unions exercise their inspections functions, the conditions and modalities under which the SLI collaborates with the labour inspection bodies under the authority of the trade unions (including the manner in which it delegates powers and supervises their activities), the way in which is ensured the homogeneity of application of legislation across the country and, ultimately, as regards the manner in which the central authority maintains supervision and control of the labour inspection system in its entirety, as required by Article 4 of ILO C81 and Article 7 of ILO C129, as already noted by CEACR⁷³.

In addition, the provisions of the Presidential Decree No. UP-5490 of 15 March 2019, regarding the mandatory registration of all inspection visits, their illegality if carried out without registration and the need to obtain authorization from the Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities to conduct inspection visits are not in conformity with Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. In fact, ILO CEACR already noted, in its [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions, that imposing by law significant restrictions on the undertaking of unannounced inspections or establishing a requirement to obtain consent for inspections from other governmental agencies are contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. The same concerns were already expressed in the recent [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

Collaboration and cooperation

The limitation of the term of engagement (secondment) of inspectorate personnel to inspections (investigation teams) to not more than ten days per month (foreseen in Article 38 of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan - Regulations on the SLI)⁷⁴, can undermine the necessary cooperation between labour inspection services and other Government services and public or private

⁷³ [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

⁷⁴ Vide Annex 3 of the Decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 1066, of 31 December 2018.

institutions engaged in similar activities, as foreseen in Article 5(a) of ILO C81 and Article 12(1) of ILO C129, as also noted CEACR⁷⁵.

Status and conditions of service of labour inspectors

The Government recognizes, in its reply to the questionnaire, that the remuneration of the labour inspectors is low, and may not always ensure honesty and decency in the actions of inspectors. The latter raises serious concerns about the conformity of such remuneration with the need to ensure that the conditions of service of labour inspectors ensure their independence from improper external influences, as prescribed in Article 6 of ILO C81 and Article 8 of ILO C129.

Moreover, the fact that state labour inspectors of the regional offices are not offered reimbursement for their travel or food expenses is contrary to Article 11(2) of ILO C81 and Article 15(2) of ILO C129).

In addition, the payment of monthly bonuses to the heads of labour bodies and employees of the inspectorate amounting up to 10 percent of the amount of fines imposed for administrative violations, not exceeding 100 minimum wages (foreseen in section 39 of the Regulations on the SLI), "can affect the impartiality of labour inspectors in the performance of their duties and can create a situation of conflict of interest for labour inspectors, in violation of Articles 6 and 15(a) of Convention No. 81 and Articles 8 and 20(a) of Convention No. 129", as recently observed by CEACR⁷⁶.

Number of labour inspectors

Considering the importance of the duties which inspectors have to perform (in terms of the number, nature, size and situation of the workplaces; number and classes of workers employed; and number and complexity of the legal provisions to be enforced), as well as the material means available for inspectors, and the practical conditions under which visits of inspection must be carried out, as foreseen in Article 10 of C81 and Article 14 of C129, the number of state labour inspectors (302), representing a ratio of one state labour inspector per 45,814 workers, appears to be insufficient. The latter is somehow reinforced by a rather low, although on the raise, number of inspections visits carried out by state labour inspectors during 2021 (27,471).

In addition, it is worth mentioning that between January 2021 and December 2022, the number of labour inspectors of the State Labour Inspectorate decreased by 46 (from 348 to 302, corresponding to a decrease of 13.2%). In this respect, it is important to recall that *substantially lowering the number of labour inspectors and the resources allocated to them, making it difficult or impossible to secure the effective discharge of duties of the inspectorate, raises issues of conformity with Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129*, as observed by CEACR [General Observation](#) (published 2020) and also noted by [ILO Direct Request \(CEACR\) - adopted 2022](#).

Gender equality

The gender imbalance among state labour inspectors, reflected on the fact that 96.4% of state labour inspectors are men, and only 3.6% are women, raises concerns as regards the full application of Article 8 of C81 and Article 10 of C129.

Training of labour inspectors

The mandatory two-weeks inception training afforded to state labour inspectors, followed by national upskilling courses with a frequency of at least once every three years, seem insufficient to ensure that labour inspectors are adequately trained for the performance of their duties. The latter

⁷⁵ [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

⁷⁶ *Ibidem*.

raises concerns about the conformity of such training practices with Article 7 (3) of C81 and Article 9 (3) of C129, as already observed in the recent [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), on the application of ILO C81 and C129 by Uzbekistan.

Performance appraisal of labour inspectors

It is not known, the existence of any system in place for the systematic appraisal of the labour inspector's performance.

Its existence, however, could be an important mechanism of alignment of individual performance with organizational strategy and planning, guiding the performance of the labour inspectors, providing opportunities for career development, promotion and recognitions of individual contribution to the overall performance of the Labour inspectorate, as well as an important instrument for retention of labour inspectors and for discouragement of underperformance behaviour and unethical practices.

Material means available for labour inspectors

As mentioned earlier, the material means (e.g.: transport, premises, desktops, laptops, tablet, mobile phones) allocated to state labour inspectors are assessed, in general, as insufficient for the effective discharge of their duties, which raises concerns as regards its conformity with Article 11(1) of Convention No. 81 and Article 15(1) of Convention No. 129, according to which the necessary material resources should be allocated to labour inspectors so that they can carry out their duties effectively, as noted by CEACR⁷⁷.

This situation is somehow aggravated by the withdrawal of 15 passenger vehicles previously allocated to the state labour inspectorate and, most especially, by the fact that the state labour inspectors assigned to the regional offices are not offered reimbursements for travel or food expenses. The latter raises serious concerns regarding the conformity of such practice with Article 11(2) of ILO C81 and Article 15(2) of ILO C129. It is important to recall, in this connection, that *substantially lowering the number of labour inspectors and the resources allocated to them, making it difficult or impossible to secure the effective discharge of duties of the inspectorate, raises issues of conformity with Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129*, as observed by CEACR [General Observation](#) (published 2020) and also noted by [ILO Direct Request \(CEACR\) - adopted 2022](#).

Powers of labour inspectors

The free initiative of the state labour inspectors for carrying out inspection visits in Uzbekistan is severely restrained by:

1. The current moratorium on inspection visits, imposed by the Presidential Decree No. UP-5490, of 15 March 2019, which, according to the CEACR, *constitutes a serious violation of Conventions Nos. 81 and 129*.⁷⁸
2. The imposition, through the Presidential Decrees No. UP-5490, of 15 March 2019, No. UP-6314, of 15 September 2021, and No. PP-374, of 13 September 2022, of substantial restrictions on the performance of inspection visits, which are contrary to Articles 12 and 16 of ILO C81 and Articles 16 and 21 of ILO C129⁷⁹, establishing, for example, the need for labour inspectors, prior to conduct an inspection visit, to:

⁷⁷ Vide [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

⁷⁸ Vide CEACR [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions; and [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

⁷⁹ *Ibidem*.

- a. Verify the existence of the specific ground for carrying out inspection visits, which has to be foreseen in the legislation (and which does not include the free decision of the labour inspectors);
- b. Define the scope of the inspection visit, which cannot be modified (even if the facts verified during inspection do so advise). In this respect, CEACR observed that limiting the lawful scope of inspections to certain subjects or to pre-established checklists raises issues with respect to Article 16 of Convention No. 81 and Article 21 of Convention No. 129 concerning the inspection of workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions⁸⁰;
- c. Register the inspection visit at the Unified system of electronic registration of inspections.
- d. Get authorization for the inspection visit from the Commissioner under the President of Uzbekistan for the protection of rights and legitimate interests of business entities (The Business Ombudsman). In this regard, CEACR considers that *“establishing a requirement to obtain consent for inspections from other governmental agencies is contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129”*⁸¹; and
- e. Notify the employer in advance about the upcoming inspection visit.

In addition, and contrary to Articles 12 and 16 of ILO C81 and Articles 16 and 21 of ILO C129, labour inspectors in Uzbekistan cannot:⁸²

3. enter freely and without previous notice at any hour of the day or night any workplace liable to inspection
4. enter by day any premises which they may have reasonable cause to believe to be liable to inspection;
5. carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, in particular, labour inspectors cannot:
 - a. interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;
 - b. take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified.
7. inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. In fact, and contrary to Art. 16 of C81 and 21 of C129, labour inspectors, cannot:
 - a. Decide the frequency of inspection visits, which is determined by the results of the «risk analysis» system provided by Art. 5(1) of Presidential Decree 5490;
 - b. Decide the duration of the inspection visits, which maximum duration is limited to:
 - i. 1 day, in case of unscheduled inspection visits; and
 - ii. 10 days, in case of scheduled inspection visits.

It is important to note that CEACR observed, in this respect, that establishing strict limits

⁸⁰ See CEACR [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions.

⁸¹ *Ibidem*.

⁸² See [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

for the maximum duration of inspections raises issues with respect to Article 16 of Convention No. 81 and Article 21 of Convention No. 129 concerning the inspection of workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions⁸³;

Other restrictions and limitations to the powers and activities of the labour inspectors in Uzbekistan, include:⁸⁴

8. The limitation of the suspension of works that pose serious and imminent danger to the life, health or safety of workers to a maximum of 10 days, foreseen in sections 8(4) of the Regulations on the SLI, which raises concerns on the application of Article 13 of C81 and Article 18 of C129, as noted by CEACR;
9. The obligation to notify labour inspectorate of cases of occupational diseases is not prescribed by national laws or regulations, contrary to what prescribed in Article 14 of ILO C81 and Article 19(1) of C129.

Sanctions

Despite the mentioned legal competencies of the state labour inspectors to impose administrative penalties or to propose criminal liability, these are drastically diminished by the severe restrictions to their powers and activities mentioned earlier, which prevent them from effectively discharge their duties.

Activities of the labour inspectors

The analysis of the data provided on the number, nature and scope of inspection visits carried out by labour inspectors in Uzbekistan during 2020 and 2021, shows that although the number of inspection visits carried out by state labour inspectors increased about 43% in 2021, state labour inspectorate did not perform any inspection visits on labour relation issues during 2020 and 2021, which is one of their main functions of the labour inspection system, according to Article 3(1a) of ILO C81 and Article 6(1a) of ILO C129.

It also leads to the conclusion that all inspection visits carried out during 2020 and 2021 were first inspection visits. No follow-up inspection visits were performed during this period.

In addition, and considering an average number of state labour inspectors of 325.5 during 2021 (348 in January and 303 in October) and the number of inspection visits carried out in 2021 (27,471), one can conclude that state labour inspectors performed, on average, 7.7 inspection visits per month, which raises concerns as regards the adherence to the general principle that most of inspectors' time should be devoted to visiting workplaces, as foreseen on paragraph 5.2.3 of the ILO [Guidelines on general principles of labour inspection](#) and on paragraph 8 of the ILO [Labour Inspection Recommendation](#), 1923 (No. 20), and appears to reflect the negative impact of the mentioned restrictions and limitations to the free initiative of labour inspectors to carry out inspection visits.

⁸³ See CEACR [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions.

⁸⁴ See [ILO Direct Request \(CEACR\) - adopted 2022](#), published 111st ILC session (2023), regarding the application of ILO C81 and C129 by Uzbekistan.

RECOMMENDATIONS

The main technical recommendations aimed at improving the efficiency and effectiveness of the systems of labour inspection of Tajikistan and Uzbekistan, are as follows:

Tajikistan

Main technical recommendations on the improvement of the labour inspection system in Tajikistan, include:

1. To repeal , or to take the State Inspection Service out of the scope of, the Law on moratorium on inspections of business entities (adopted by the Parliament on 27 April 2022, approved by the Parliament on 30 May 2022, and ratified by the President on 8 June 2022), and refrain from imposing *moratorium* on labour inspection visits in the future.
2. To amend section 2(5) of the Regulations of the State Inspection Service for Labour, Migration and Employment (SILME), approved by the Government Decision No. 299, of 3 May 2014 (and amended in 2020), in order to ensure that state labour inspectors are not entrusted with additional functions that interfere with the effective discharge of their primary duties and/or prejudice the authority and impartiality which are necessary to inspectors in their relations with employers and workers, and align it with Article 3(2) of ILO C81, Paragraph 3 of ILO Recommendation No. 20, and Paragraph 8 of ILO Recommendation No. 81.
3. Given the duality of inspection functions assumed by and the different rules applying to state and trade union labour inspectorates, as well as the overlap of supervisory and control functions performed by the Prosecutor's Office, Ministry of Labour, Migration and Employment of Population, and by the Council for the Coordination of the Activities of Inspection Bodies, which raises concerns on compliance with Article 4 of ILO C81, and the homogeneity of the application of legal provisions across the entire country, as already observed by the ILO CEACR, it is recommended to consider, in consultation with the most representative organizations of employers and workers, to place SILME under the supervision and control of the Ministry of Labour, Migration and Employment of Population and to amend Article 357 of the Labour Code, Trade Unions Law, and the Regulations on the Trade Union Labour Inspectorate, so as to enable the merger and incorporation, into the State Inspection Service for Labour, Migration and Employment, of the labour inspectorate of the FITU, along with the incorporation of its staff into the SILME (in conditions to be defined in a specific legal act), followed by the scale up and further capacity building of all the staff. Such intervention would ensure the subordination of the entirety of the labour inspection system to the supervision and control of the Ministry responsible for the formulation and implementation of the labour and employment policies (acting as the central authority), improving coordination and promoting an increased homogeneity on the application of the legislation across the entire country. At the same time, such measure would also enable the increase of the number of state labour inspectors (by incorporating the FITU inspectors into SILME) and the benefits arising from their considerable expertise. Moreover, it would also allow the labour inspection system to benefit from synergies and economies of scale resulting from the integration of the operations of both inspectorates. In addition, it would also contribute to improved conformity of the system of labour inspection with the minimum requirements of an effective labour inspection system, set forth by ILO C81, in particular as regards the conformity and equality of the status, conditions of service, recruitment, training, means, resources, powers and procedures, across the entire system of labour inspection.
5. To take SILME out of the scope of the Law No. 1269, of 25 December 2015, on Inspections of the Operations of Business Entities. Mainly because the objects, recipients and beneficiaries

of the activity of the labour inspection are not just business entities (*legal entities that, regardless of their form of ownership, including subsidiaries and representative offices of foreign legal entities and individual entrepreneurs, conduct entrepreneurial activities*, as defined in its Article 1) but also workers and other employers that do not conduct any business or entrepreneurial activities (e.g., public administration organizations, not-for-profit organizations, NGOs, associations, etc) and their representative organizations; and because this law restricts and limits the powers and activities of the labour inspection system, rendering it ineffective and is contrary to several provisions of the ILO C81 (as already observed by the ILO CEACR⁸⁵), including Articles 3, 4, 6, 12, 13, and 15 to 18. Other option, although not so advisable, considering the number of required exceptions to its application, would be to amend the Law, excluding the application of several provisions to the State Inspection Service. The necessary amendments would include, *inter alia*:

- a. To amend Articles 16, 22(4), and 23 of the Law No. 1269, in order to repeal the current ban on inspection visits to new businesses during the first two years of its operation, which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020.
- b. To exclude the application of Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24 to SILME, as they impose a limitation on the power of state labour inspectors to undertake inspection visits without previous notice, being therefore contrary to Article 12(1a) of ILO C81, as already observed by CEACR⁸⁶.
- c. To exclude the application of Article 26(5) to SILME, as it is contrary to Article 12(1a) of ILO C81, by imposing a limitation of the power of labour inspectors to conduct inspection visits at any hour of day or night.
- b. To exclude SILME from the pre-requisite of verification of a specific ground (foreseen in Article 19) for carrying out any labour inspection visit, along with the elimination of the obligation to communicate it to the employer (Article 24(2)) and to register it (Article 13(4)), so as to conform it with both Articles 12 and 15(c) of ILO C81.
- c. To waive SILME from the obligation to comply with the prior procedure for initiating an inspection visit, which poses considerable restrictions on their performance and is therefore contrary to Article 12(1) of ILO C81, as observed by CEACR in its [General Observation](#) of 2020), in particular, waving SILME from the following established pre-requisites for initiating an inspection visit:
 - i. Verifying the grounds provided for in Article 19;
 - ii. Have a decision to conduct the inspection visit signed, with the indication of its scope (Article 12);
 - iii. Register the inspection visit in the Inspection Register (Article 13);
 - iv. Notify the employer in advance about the inspection visit and send him, prior to the inspection, the information foreseen in Articles 13(4), 16, 18(9), 19(8), 20(4), 21(7) and 24).

⁸⁵ *Vide* CEACR [General Observation](#) (published 2020), on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions, as well as Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

⁸⁶ *Cf.* Observations (CEACR): [adopted 2021, published 110th ILC session \(2022\)](#); [adopted 2020, published 109th ILC session \(2021\)](#); [adopted 2019, published 109th ILC session \(2021\)](#); [adopted 2018, published 108th ILC session \(2019\)](#).

- c. The elimination of the severe limitations on the frequency of inspections (which is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020), by:
 - i. Amending Article 20 (on additional inspections) and Article 21 (on repeated inspections);
 - ii. Waving SILME from the obligation to comply with the procedure for initiating an inspection visit (as recommended above), which poses considerable restrictions on their performance and frequency, namely by amending Articles 12, 13, 16, 18 to 21, and 24;
 - iii. Waiving SILME from defining the frequency (or inspection intervals) of scheduled inspections in accordance with the defined procedure and on the basis of the degree of risk of each specific business entity, as provided for in Articles 18 and 22.
- d. The exclusion of SILME from the application of Article 26, which defines the maximum duration of inspection visits and is contrary to Article 16 of ILO C81, as observed by CEACR in its [General Observation](#) of 2020).
- e. Eliminating, at least for SILME, the limitations imposed on the scope of the inspection visits, which are contrary to Article 16 of ILO C81, in particular by:
 - i. Amending Articles 13(4), 18(6), 19(2) to 19(5), 22(6), 24(2), 30(1), 32(1), and 34, so as to exempt SILME from the obligations to define the scope of the inspection visits prior to its initiation, as well as from the prohibition to change the scope during the inspections if the situation found at the workplace do so advise.
 - ii. Amending Articles 19 and 25, to exempt SILME from the obligation of conducting inspection visits exclusively based on checklists (the so called "Lists of Control Questions").
- d. To amend Articles 30(4) and 43(4), so as to remove the limitation of a measure with immediate executory force in the event of serious and imminent danger to the life, health or safety of the workers (e.g.; temporary suspension of works) to maximum duration of three months, as well as to remove the suspensive effect of such measure (until a decision has been reached on its merits) in case of an appeal against it from the employer.
- e. To amend Article 19, to exclude the responsibility of the state labour inspectors, in case significant violations are found during an unscheduled inspection visit that follows a scheduled visit, not only because the violations are responsibility of the employer, but also to ensure the independence of labour inspectors from improper external influences and secure the necessary conformity of the Law with Article 6 of ILO C81.
- f. To amend Article 37(1), in order to ensure that the performance appraisal of state labour inspectors is not assessed on the basis of the feedback from the inspected employer (in order to ensure their independence from improper external influences and the necessary conformity with Article 6 of ILO C81) and, at the same time, to develop and implement a system for the performance appraisal of labour inspectors and other staff of the SILME, which guides the performance of staff, promotes the alignment of individual performance with organizational goals, facilitates recognition of performance and career advancement, encourages increases of performance, and discourages under-performance and improper behaviours, but which is based on objective indicators, aimed at measuring the individual contribution to the achievement of the SILME objectives, as well as to the improvement of work conditions at the workplaces.

5. To publish reports on the work of the inspection services and transmit those reports to the ILO in line with Articles 19 and 20 of ILO C81, with inclusion of statistics of workplaces liable to inspection and the number of workers employed therein, as urged by the conclusions of the Committee on the Application of Standards (Conference Committee) on the application of Convention No. 81 by Tajikistan.⁸⁷
6. To reinforce the number and optimize the geographical distribution of the state labour inspectors across the country, taking into account the relevance of the duties which state labour inspectors have to perform (in terms of the number, nature, size and situation of the workplaces; number and classes of workers employed; and number and complexity of the legal provisions to be enforced), the material means available for inspectors, and the practical conditions under which visits of inspection must be carried out to be effective, in order to better align the system of labour inspection, in law and in practice, with the requirements set forth in Article 10 of ILO C81.
7. To step-up the number of inspection visits, not only by increasing the number of the labour inspectors, but also ensuring that most of the time of the labour inspectors are allocated to visits to workplaces (to provide technical advice and information to employers and workers and to enforce the legal provisions) and, at the same time, to ensure that the scope of the inspection visits conducted cover the full mandate of the labour inspectorate.

Uzbekistan

As for Uzbekistan, main technical recommendations include, *inter alia*:

1. To repeal, or to take the State Labour Inspectorate out of the scope of, the Presidential Decree No. UP-5490, of 15 March 2019, which establishes a moratorium on inspection visits, and refrain from imposing moratorium on labour inspection visits in the future.
2. To repeal, or to take the State Labour Inspectorate out of the scope of, the Presidential Decrees No. UP-5490, of 15 March 2019, No. UP-6314, of 15 September 2021, and No. PP-374, of 13 September 2022, which imposes substantial restrictions on the performance of inspection visits, so as to enable labour inspectors to perform inspection visits without the prior obligation to:
 - a. Verify the existence of a given legal ground, which does not include the free initiative of the labour inspector, to conduct the inspection visit.
 - b. Define the scope of the inspection visit, which cannot be modified (even if the facts verified during inspection do so advise).
 - c. Register the inspection visit at the Unified system of electronic registration of inspections.
 - d. Get authorization from the Business Ombudsman.
 - e. Notify the employer in advance about the upcoming inspection visit.
3. To amend the Presidential Decree No. UP-5490, of 15 March 2019, the Presidential Decision No. PP-3913, of 20 August 2018, and the Regulations on the SLI (in Annex 3 of the Decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 1066, of 31 December 2018), in order to entrust labour inspectors with the powers to:
 - a. enter freely and without previous notice at any hour of the day or night any workplace liable to inspection

⁸⁷ *Vide* Observation (CEACR) - adopted [2021](#), published 110th ILC session (2022), regarding the application of ILO C81 by Tajikistan.

- b. enter by day any premises which they may have reasonable cause to believe to be liable to inspection;
 - c. carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, in particular, labour inspectors cannot:
 - i. interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;
 - ii. take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified.
 - d. inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions and, including to decide the frequency and duration of inspection visits.
4. To amend sections 8(4) of the Regulations on the SLI, in order to exclude the limitation to a maximum of 10 days of the suspension of works that pose serious and imminent danger to the life, health or safety of workers.
 5. To amend the Regulations on investigating and keeping records of industrial accidents and other harm caused to the health of workers in connection with the performance of their duties, approved by Decision of the Cabinet of Ministers No. 286, of 6 June 1997, in order to include the obligation to notify the state labour inspectorate of cases of occupational diseases in addition to occupational accidents.
 6. To repeal the, or to take state labour inspectorate out of the scope of, Presidential Decree No. PP-3913, of 20 August 2018, that limits to ten working days per month the time that monitoring and law enforcement authorities may call upon inspectors to perform inspections.
 7. To consider, in consultation with the most representative organizations of employers and workers, to amend Article 9 of the Labour Code and Article 44 of the Trade Union Law, of November 2019, so as to enable the merger and incorporation, into the State Labour Inspectorate, of the labour inspectorate of the FTUU, along with the incorporation of its staff into the state labour inspectorate (in conditions to be defined in a specific legal act), followed by the scale up and further capacity building of all the staff. Such intervention would ensure the subordination of the entirety of the labour inspection system to the supervision and control to the central authority, improving coordination and promoting an increased homogeneity on the application of the legislation across the entire country. At the same time, such measure would also enable the increase of the number of state labour inspectors (by incorporating the FTUU inspectors) and the benefits arising from their considerable expertise. Moreover, it would also allow the labour inspection system to benefit from synergies and economies of scale resulting from the integration of the operations of both inspectorates. In addition, it would also contribute to improved conformity of the system of labour inspection with the minimum requirements of an effective labour inspection system, set forth by ILO C81 and C129, as regards conformity and equality of the status, conditions of service, recruitment, training, means, resources, powers and procedures, across the entire system of labour inspection.
 8. To amend Article 38 of the Regulations on the State Labour Inspectorate of the Ministry of Employment and Labour Relations of the Republic of Uzbekistan, which limits to not more than ten days per month the term of engagement (secondment) of inspectorate personnel

- to inspections (investigation teams), to foster cooperation between labour inspection and other Government services and public or private institutions engaged in similar activities.
9. To formulate and implement, in consultation with the most representative organizations of employers and workers, a comprehensive human resources policy for the labour inspectorate staff, duly aligned with relevant ILS (in particular with ILO Conventions C81, C111, C129, C150, and C190), comprising, *inter alia*:
 - a. The adequate planification and programming of the number and specialities of staff of the labour inspectorate (including of labour inspectors) needed at any moment per functional area and geographical service, in order to ensure the effective fulfilment of the mandate of the labour inspection system.
 - b. Recruitment and selection criteria and procedures, which ensure that candidates are admitted with sole regard to their qualifications for the performance of their duties and uphold the fundamental right to equality and non-discrimination on the access to, exercise of and progression on the profession of labour inspector.
 - c. Appropriate remuneration, commensurable with the importance and complexity of the duties, which ensures independence from improper external influences, including the reimbursement to all labour inspectors (not just to the one in the head-quarters) of any travelling and incidental expenses which may be necessary for the performance of their duties. Within such remuneration schemes, any foreseeable bonuses should be based on collective and individual performance, and should not, in any case, be based on the number or amount of fines imposed, but rather on objective result indicators aimed at measuring the individual contribution to the improvement of the working conditions at the workplaces.
 - d. Adequate inception and continuous training, to ensure that labour inspectors are duly prepared and possess the needed skills, competencies and capacities for the performance of their duties.
 - e. Development and implementation of a system for the performance appraisal of labour inspectors and other staff of the labour inspectorate, which guides the performance of staff, promotes the alignment of individual performance with organizational goals, facilitates recognition of performance and career advancement, encourages increases of performance, and discourages under-performance and improper behaviours.
 - f. Adequate prospects for career development and individual progression, that stimulates the development and retentions of staff.
 10. To strengthen the material means and resources allocated to labour inspectors, in particular premises, vehicles for transport, IT system, desktops, laptops, tablets, and mobile phones, to secure the effective discharge of their duties and conform national legislation and practices with the minimum requirements foreseen in Article 11 of ILO C81 and Article 15 of ILO C129.
 11. To reinforce the number and optimize the geographical distribution of labour inspectors by region, taking into account the relevance of the duties which inspectors have to perform (in terms of the number, nature, size and situation of the workplaces; number and classes of workers employed; and number and complexity of the legal provisions to be enforced), the material means available for inspectors, and the practical conditions under which visits of inspection must be carried out to be effective, to better align national legislation and practices with Article 10 of ILO C81 and Article 14 of ILO C129.

12. To step-up the number of inspection visits, not only by increasing the number of the labour inspectors, but also ensuring that most of the time of the labour inspectors are allocated to visits to workplaces (to provide technical advices and information to employers and workers and to enforce the legal provisions) and, at the same time, to ensure that the scope of the inspection visits carried out cover the full mandate of the labour inspectorate and are object of proper follow-up, making sure that the working environment improves from one inspection visit to the next.

CONCLUSIONS

Once completed the analysis, it is possible to identify some common challenges in the labour inspection systems of Tajikistan and Uzbekistan, some of which were already noted by the ILO CEACR in 2020, in its [General Observation](#) on the application of the Labour Inspection and Labour Inspection in Agriculture Conventions.

They include, most especially, the imposition of *moratoria* on inspection visits, including labour inspection visits⁸⁸, which is considered by the ILO CEACR a serious violation of ILO C81 and C129, as well as the imposition of severe restrictions to the powers and activities of labour inspectors, including the limitation of their free initiative to carry out inspection visits, restrictions to their power to conduct inspection visits without previous notice, limitations on the frequency, duration and scope of inspection visits.

Other common challenges include the difficulties of the central authority in ensuring and adequate coordination of the activities of the labour inspectors of the State and Trade Unions inspectorates and their decentralized services, and their negative impact on the homogeneity of the application of the legal provisions across the country, as well as the appearance of “Coordination Bodies” (such as the Council for the Coordination of the Activities of Inspection Bodies, in Tajikistan, and Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities - Business Ombudsmen -, in Uzbekistan), aimed at defending the legitimate interests of the businesses, to which such coordination was entrusted.

The insufficiency of the financial and material means allocated to the labour inspection system, including the insufficient number of labour inspectors, their lack of adequate training and low number of inspection visits, which tends to render it ineffective, are also shared trials that need to be addressed.

Several concrete technical recommendations were put forward, to improve the effectiveness of the labour inspection systems of Tajikistan and Uzbekistan and bring them closer to the minimum requirements set forth by ILO Conventions C81 and C129.

They include, in general, to repeal the *moratoria* on inspection visits and any ban to inspection visits to particular sets of employers (or the removal of labour inspection from their scope of application), and to refrain from imposing them in the future, entrusting labour inspectors (in law and in practice) with all the powers that they need to effectively discharge their duties (foreseen in ILO Conventions Nos. 81 and 129), to cease the limitations to the frequency, scope and duration of inspection visits, and to strengthen the coordination, supervision and control of the labour inspection system by the central authority, including the consideration of the merger and incorporation of the trade union’s labour inspectorate into the state inspectorate.

Other recommendations concern the status and conditions of service of the labour inspectors, their number, training, recruitment, performance appraisal, and remuneration, among others.

The most important recommendation, however, is the following: policy decision-makers, employers and workers need to shift from the preconceived idea and shared assumption that an effective labour inspection system hampers business growth and realize that it is precisely the opposite: an effective system of labour inspection is “good for business”!

Turning labour (and human) rights, foreseen in the legislation, into a reality at workplaces, is the main purpose of a labour inspection system. However, by providing technical information and advice to employers and workers, contributing to improvement of the labour legislation, and

⁸⁸ While the last *moratorium* on inspection visits in Tajikistan was in effect till 1 January 2023, the one imposed in Uzbekistan is still in force.

enforcing legal provisions, the labour inspection system also contributes to foster business growth, contributing to the creation of a more enabling business environment, ensuring the rule of law, fairer competition, improved market attractiveness, increased foreign investment and enlarged access to new markets and global supply chains.

To achieve that, however, the labour inspection system needs to be effective and meet the minimum requirements set forth by ILO Conventions Nos. 81 and 129.

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ANNEX I – LABOUR INSPECTION SYSTEM IN ROMANIA

Country context

Romania is located at the crossroads of Central, Eastern, and Southeastern Europe. With its capital in Bucharest, Romania borders Bulgaria to the south, Ukraine to the north, Hungary to the west, Serbia to the southwest, Moldova to the east, and the Black Sea to the southeast.

Political system

Romania is a semi-presidential republic, governed within a multi-party democratic system with the separation of powers between the legislative, executive and judicial branches, which constitution was drafted after major political changes, triggered in December 1989, and approved in a national referendum, on 8th of December 1991.

Population

Romanian population was estimated, by UN, in 2020, at 19,237,691 people, ranking Romania as the 61st country in terms of population. Considering the total land area of 230,170 sq. Km (88,869 sq. miles), the population density in Romania is 84 people per sq. Km, with around 54.6 % of the population living in urban areas. The median age in Romania is 43.2 years and life expectancy 76.50 years. Infant mortality is still high, situated at the level of 5.8 (infant deaths per 1,000 live births). Death underage of 5 is 6.9 (per 1,000 live births)⁸⁹.

Employment

From a total population of 19,237,691, the active population of Romania is about 8,132,000. The employment rate for the population aged at 15 and over is 52%, with an average of worked hours per year of 1,795. Disaggregated by sex, the participation of men is 62% and women is 43.2%. As for the distribution of the labour force by sector of activity, services absorb the majority (42,8%), while agriculture accounts for 28,3% and industry 28,9%. According to the Labour Force Survey, the unemployment rate, for the population aged 15 and over is 5.0%. When disaggregated, however, the employment rate is as follows: youth (aged 15-24) 17.3% and long-term unemployed (1 year and over) 1.5%.

Economy

Romanian economy is ranked 12th in EU and, when adjusted by PPP (purchasing power parity) this rank increase to 7th. In current prices, Romanian Gross domestic product (GDP) is 1,055.5 billion RON, equivalent to approx. 249 billion USD. Latest 5-year average real growth was 3.3%.⁹⁰ The Romanian economy advanced 4.6% year-on-year in the fourth quarter of 2022, accelerating from 3.8% growth in the previous period and beating market expectations of a 4.4% gain, a preliminary estimate showed. It was the seventh straight quarter of expansion in the GDP. On a seasonally adjusted quarterly basis, the GDP expanded by 1.1%, the least in a year, after a 1.2% rise in the previous period. Considering 2022 full year, the GDP grew by 4.8%, compared to a 5.8% expansion in 2021⁹¹. According to IMF estimation for 2022, the Romanian GDP Per capita (000 USD PPP) is 38,097. This situates the country on 49th rank of a total of 192 countries. Romanian economy is mainly based on services. Value added shares in the economy is 4.3% for the agriculture, 29.5% industry and 66.2% services (OECD: 2019). Romania is a producer and net exporter of machines and electric energy through companies like Automobile Dacia and OMV Petrom.

⁸⁹ <https://www.worldometers.info/world-population/romania-population/>

⁹⁰ <https://www.oecd.org/economy/surveys/romania-2022-OECD-economic-survey-overview.pdf>

⁹¹ National Institute for Statistics.

Incomes and social protection

The minimum statutory gross wage in Romania was increased in 2023 by 17.6%, to RON 3,000 (EUR 600), according to a draft bill published by the Labour Ministry. This is the equivalent of RON 18.1 (EUR 3.6) per hour. Around 857,000 Romanians (16.3% of about 5.27 mln employees), are paid the minimum statutory wage in the country. However, a total of 2.2 mln employees (more than one out of three), benefited directly or indirectly from the rise in the minimum statutory wage.

The gross average wage in Romania hit nearly RON 6,500 (EUR 1,300) in September, 13.8% up YoY. The average net wage was just over RON 4,000 (EUR 800).

According to the information from National House of Public Pensions, in December 2022, in Romania there are 4787920 pensioners. The average pension was 1739 lei (approx. 380 USD). Since 1st of January 2023, the guaranteed minimum pension is 1.125 de lei (approx. 245 USD).

Social dialogue

The social dialogue in Romania is conducted in line with the ILO standards. In Romania is operational the National Tripartite Council, a social dialogue structure composed by representatives of the Government, employers, and workers. It is also operational the Economic and Social Council, formed by the employers' and workers' representatives and an important number of NGOs representing the civil society.

Most representative organizations of the workers include the National Confederation of Free Trade Unions in Romania (FRATIA), National Trade Union Bloc (BNS), National Trade Union Confederation (NTUC "Cartel Alfa"). The most representative organization of the employers is the Employer's Confederation of Romania (Concordia).

Cooperation with ILO and other international organizations

Romania is a founding member of the ILO in 1919, and as ratified a total of 56 ILO Conventions. It has ratified 8 (out of 10) Fundamental Conventions⁹², all 4 Governance/Priority Conventions (including C81 and C129 on Labour Inspection) and 44 (out of 176) Technical Conventions.

Between 1993 and 2008, the ILO was present in the country, through an ILO dedicated Office. The ILO supported labour market institutions and reforms on labour legislation. Some of the key achievements were the revision of the Labour Code, the adoption of new legislation on collective agreements and tripartite social dialogue, the modernization of labour inspection services, and new active labour market policies.

After Romania's accession to the EU (in 2007), the ILO provided technical comments on the 2010-2011 labour and social dialogue legislation and supported the establishment of the Office for Mediation of Collective Labour Disputes. Romania has also funded a technical project on social security implemented by the ILO in Moldova.

Romania is also a member of the United Nations (since 1955), NATO (since 2004), and of the European Union (since 2007).

Mandate of the labour inspection system

According to Art. 1, paragraph 4, of the Law No. 108/1999, the Labour Inspection acts to ensure the social protection of work, based on the provisions of Art. 41 of the Romanian Constitution (republished) and on the provisions of the ILO [Labour Inspection Convention](#), 1947 (No. 81), ratified

⁹² Romania did not ratify yet the two ILO Fundamental Conventions on OSH: [Occupational Safety and Health Convention](#), 1981 (No. 155) and [Promotional Framework for Occupational Safety and Health Convention](#), 2006 (No. 187).

by Decree of the State Council no. 284/1973, and of the ILO [Labour Inspection \(Agriculture\) Convention](#), 1969 (No. 129), ratified by Decree of the State Council no. 83/1975.

The mandate of the labour inspection system covers all workplaces and all workers of the private sector but, as for public administration, it only applies to contractual staff, thus excluding civil servants from its scope.

It is worth noting that, according to the Law No. 108/1999, the following institutions are not to be controlled by the Labour Inspection: the Ministry of National Defence, the military structures and the structures in which the activity is carried out by civil servants with special status within the Ministry of Administration and the Interior, the National Administration of Penitentiaries within the Ministry of Justice, the Romanian Intelligence Service, Foreign Intelligence Service, Protection and Security Service, Service of Special Telecommunications, as well as the National Commission for the Control of Nuclear Activities. These institutions, according to art. 9 of the Law No. 108/1999, must organize their specific inspection activities, through their own specialized services, which have exclusive competence for the respective structures.

Functions of the labour inspection system

According to the provisions of Art. 5 of the Law No. 108/1999, Labour Inspection performs the following general functions:

1. state authority - which ensures the exercise of control of the application of legal provisions in its fields of competence;
2. communication - ensuring the exchange of information with central and local public administration authorities, as well as with natural and legal persons subject to control activity, informing them and citizens on how to comply and apply the provisions of the legislation in its fields of competence;
3. representation - which ensures, on behalf of the Romanian state and the Romanian Government, the representation internally and externally in its fields of competence;
4. training - through which the training and professional improvement of the staff is carried out, under the law;
5. cooperation - through which actions are carried out jointly, internally and internationally, in its fields of competence;
6. administration - management of the financial, material and human resources allocated to the exercise of its functions.

Scope of the labour inspection system

In this respect, the Romanian Labour Inspection acts to ensure the social protection of work, based on the provisions of art. 41 of the Romanian Constitution and in respect of the International Labour Standards in this area.

The Art. 1, para 3 of the Law No. 108/1999, states that the Labour Inspection performs the function of state authority, ensuring the exercise of control in the fields of labour relations, safety and health at work and market surveillance. According to the latter, the Labour Inspection shall have the following specific tasks:

1. in the field of labour relations:

- a. control the application of legal, general and special regulations, regarding the conclusion, execution, modification, suspension and termination of individual employment contracts;
- b. control the establishment and granting of rights due to the employees arising from the law, from the applicable collective agreement and from individual employment contracts;
- c. controls the application of measures to respect equal opportunities and treatment between women and men;
- d. ensure at national level the record of work performed on the basis of individual employment contracts, through the general register of employees, as well as the record of day labourers and beneficiaries of their benefits;
- e. control the use of labour, in order to identify cases of undeclared work;
- f. receives and transmits in computer system, through territorial labour inspectorates, the data submitted by employers and beneficiaries regarding employees and day laborers;
- g. ensure the registration of collective agreements at the level of units and verify their provisions, according to the procedure approved by the state inspector general, and conciliate the labour conflicts triggered at the level of the units.

2. in the field of OSH:

- a. control, coordinate and methodologically guide the application of the provisions on safety and health at work, arising from national, European legislation, and conventions of the International Labour Organization;
- b. investigates the events according to the competences, endorses the investigation, establishes or confirms the character of accidents, collaborates with the institutions involved in the record and reporting of occupational accidents and diseases;
- c. control the activity of training, information and consultation of employees and provide information in order to improve it;
- d. authorizes, from the point of view of safety and health at work, the functioning of natural and legal persons and withdraws or may propose the withdrawal of authorization, under the law;
- e. analyses the activity of external prevention and protection services and propose, as the case may be, to the commission, to empower external services to prevent and protect and to endorse technical documentation of information and training in the field of safety and health at work within the territorial labour inspectorates or to withdrawal that empowerment;
- f. issues opinions and authorizations according to the competences established by the applicable normative acts;
- g. orders the cessation of the activity or the stop in operation of the work equipment, if a state of serious and imminent danger of injury or professional illness is found, and notifies, as the case may be, the prosecution bodies;
- h. orders the employer to carry out measurements, determinations and surveys for the prevention of events or to determine the causes of the events produced, as well as the verification, by competent bodies, of the classification of the professional pollution

emissions within allowable limits at workplaces, the expenses being borne by the employer.

3. in the field of market surveillance:

- a. control compliance with the legal provisions regarding the placing on the market of products for which market surveillance actions are carried out, according to the competences;
- b. restricts, through the legal measures established by the legislation in force, the marketing of non-compliant products and order measures to eliminate the non-conformities found;
- c. takes samples and carry out tests in order to identify products that have suspicions of non-compliance;
- d. collaborates with the customs authorities and other bodies responsible for border controls for the exchange of information on products posing risks in use;
- e. cooperates with the national competent authorities and within the European Union on all market surveillance issues, including the notification of the safeguard clause for non-compliant products.

Structure and organization

Art. 1 of the Law No. 108/1999, stipulates that the Labour Inspection is a specialized body of the central public administration, subordinated to the Ministry of Labour, Family and Social Protection (currently, the Ministry of Labour and Social Solidarity), which has legal personality and is fully financed from the state budget, through the budget of the Ministry of Labour, Family and Social Protection.

According to the Art. 2 of the same Law, territorial labour inspectorates are organized in each county and in Bucharest, as institutions with legal personality, operating under subordination of the central Labour Inspection.

In addition, according to the Article 10, para. 9 and 10 of the Law No. 108/1999, it shall be put into place, at the level of the Labour Inspectorate, a Tripartite Advisory Council, fulfilling a consultative role of social dialogue, consisting of the designated representatives of the institution, as well as of representatives of the trade union and employers' confederations at national level. The organization and the tasks of the Tripartite Advisory Council shall be established by the Regulation on the organization and functioning of the own apparatus of the Labour Inspection, approved by order of the Minister of Labour, Family and Social Protection, at Labour Inspectorate proposal. Similarly, in accordance with the Article 11, para 6 and 7, tripartite Advisory Councils will be organized at the level of each territorial labour inspectorate.

Collaboration and cooperation

In order to improve its efficiency and effectiveness, Romanian labour inspectorate collaborates with other public authorities and institutions. For that, it concluded collaboration protocols with the following public authorities/institutions:

- National Agency for Payments and Social Inspection;
- Ministry of Investments and European Projects - General Directorate for European Competitiveness Projects;
- Department for the Fight Against Fraud;
- National House of Public Pensions;

- The Court of Accounts of Romania – Audit Authority;
- Ministry of Education – Executive Unit for Financing Higher Education, Research, Development and Innovation;
- State Inspectorate for Road Transport Control (I.S.C.T.R);
- Ministry of Internal Affairs - General Inspectorate for Immigration;
- National Agency for Fiscal Administration;
- Ministry of Education – OIPOCU Directorate;
- National Employment Agency;
- Agency for Financing Rural Investments.

Status and conditions of service

Article 12 of the Law No. 108/1999 stipulates that the staff of the Labour Inspection and of the territorial labour inspectorates shall be composed of civil servants and contractual staff. In the exercise of their duties, the labour inspectors shall exercise duties of state authority.

According to the provisions of the Law No. 108/1999, labour inspectors are civil servants, within the framework of specific public functions with special status. Their status is regulated by the Law No. 337/2018, that regulates Status of the Labour Inspector.

The salary rights of the staff assigned to the Labour Inspection and to the territorial labour inspectorates are regulated by Article 14 of the Law No. 108/1999. They shall be granted as follows:

1. for Labour Inspection, according to the legal provisions applicable to the own apparatus of the Ministry of Labour, Family and Social Protection.
2. for territorial labour inspectorates, according to the legal provisions applicable to the devolved public services of ministries.

In line with the Law No. 337/2018, on the Status of Labour Inspector, the labour inspector benefits from stability in his/her position and independence from any change of government and any unforeseen influence from outside, likely to affect his freedom of exercise, decision or control in the exercise of his duties, assessment and decision and which may limit or prevent him/her.

Promotion procedures and career development are regulated by the Law No. 337/2018 and, complementarily, by the Law no. 188/1999.

Promotion is defined as the way of career development by occupying a superior public position and provides that the promotion of a public servant to a professional grade immediately higher than the one held is made through a competition or exam, organized every six months by the public institutions authorities, by changing the position occupied by the public official as a result of the promotion competition or exam. Art. 65, foresees that the mentioned contest or the professional degree promotion exam is organized by its authority the public institution, within the limits of public functions reserved for promotion, with inclusion in the budget funds allocated.

Recruitment of labour inspectors

The function of labour inspector may be occupied according to Art. 16 para 4 of the Law no. 108/1999, by persons graduated with a with bachelor's degree diploma, namely long-term higher education graduates with a bachelor's degree or equivalent in fundamental fields like sciences engineering, agricultural and forestry sciences, legal sciences, economic sciences or in specializations such as sociology, psychology, medicine, public administration, and political science.

Article 17 of the same Law stipulates that the recruitment and appointment of labour inspectors shall be made according to the legislation in the field of public office. In fact, as civil servants, the recruitment procedures of the Labour Inspectors are also regulated by the Law No. 188/1999, regarding the Status of the Public servants, as follows:

- Article 55: Vacant public positions and temporarily vacant public positions can only be filled under the conditions of this law. According to the law, public positions are filled by promotion, transfer, redistribution, recruitment or other methods expressly provided by the law.
- Article 57(1) further stipulates that the recruitment of public officials to enter a public body shall be done through competition.

Number of labour inspectors

In 2021, the total number of labour inspectors was 1,456, of which 62 were operating at the central level and the remaining (1.394) at the territorial level.

In addition, from the total number of 1,141 territorial labour inspectors, 327 (29%) were OSH inspectors and 814 (71%) were labour relations inspectors.

Considering the total number of labour inspectors and the number of employed population (5,640,093), the average number of employed persons served per labour inspector was roughly 3,874.

Gender equality

In Romania, the Law no. 202/2002, regarding equal opportunities and treatment between men and women, regulates the way in which any form of discrimination based on sex shall be prevented and eliminated, as regards any sphere of activity and public life at national level.

Overall, in 2021, according to the information offered by the annual report of the Labour Inspection, from a total number of 1,394 labour inspectors for OSH and Labour Relations at territorial level, 738 (53%) were women.

In more detail, as of the end of 2021, the gender distribution of labour inspectors by gender and activity was as follows:

- From the 253 labour inspectors with management functions: 52 (21%) were women; and 201 (79%) men;
- From the 327 territorial OSH labour inspectors: 82 (25%) were women and 245 (75%) men;
- From the 814 territorial labour relations inspectors: 604 (74%) women and 210 (26%) men.

Women labour inspectors are mainly underrepresented in management functions and in the area of OSH.

Other duly qualified technical experts and specialists

Existing legal provisions offer Labour Inspectorate the possibility to employ experts and/or specialists, as permanent staff of the institution, as well as to contract these categories of personnel as service providers for specific activities limited in time or addressing specific topics.

Training of labour inspectors

In line with the Art. 7, letter c) of the Law 337/2018, on the Status of Labour Inspection, the labour inspector has “the right to benefit from professional development in the specific field of activity and in the fields that are interconnected with the specific activity of the institution, supported by the programs organized by the Centre for training and professional development of the Labour

Inspectorate or by public and private providers of professional training, authorized under the conditions of the law, and settled by the employer”.

Performance appraisal of labour inspectors

Article 69 of the Law 188/1999, on the Status of the Public Servants, regulates the performance appraisal for the Labour Inspectors, as follows:

- The evaluation of individual professional performances of civil servants is done annually. Following the evaluation of individual professional performances, the public servant is granted one of the following qualifications: "very good", "good", "satisfactory", and "unsatisfactory".
- The qualifications obtained at the professional evaluation are considered for promotion to a higher public position, for release from public office and for the process of evaluating the professional performance of public officials.
- The qualifications obtained are used as indicators when establishing the professional training requirements of civil servants.

Material means available for labour inspectors

The Law 108/1999 includes provisions regarding the initial transfer of assets necessary to the labour inspectors to perform their duties. Article 27(1), for example, foresees that Labour Inspection is assigned by the Ministry of Labour, Family and Social Protection, on the basis of a protocol, with the buildings, land and other assets necessary for its activities. In addition, according to Art. 27(2), for the development of own activities, central or local public authorities will assign to the Labour Inspection, as a priority, under the conditions provided by law, land, buildings and spaces.

In 2021, Labour Inspectorate was allocated with the following budget:

- Staff expenditure: 201,306,000 RON (approx. 43,765,000 USD)
- Goods/services procurement: 26,124,000 RON (approx. 5,680,000 USD)
- Facilities, IT systems, transport, reimbursement of service expenses, etc.: 3,193,000 RON

Powers of labour inspectors

The powers of the labour inspectors are regulated in Art. 19 of the Law no. 108/1999, which provides that labour inspectors, carrying on them the badge attesting the function they perform in the exercise of their duties established by law, have the following rights:

1. free access, permanently and without prior notice, to the premises of any employer and in any other workplace organized by natural or legal persons;
2. identify, on the basis of documents proving the identity or on the basis of other documents, persons in workplaces or other places subject to control or investigation of events and to impose the completion of the identification sheet;
3. to ask the employer or its legal representative, as well as the employees, alone or in the presence of witnesses, the documents and the information necessary to carry out their control activities;
4. take written statements, alone or in the presence of witnesses, from employees, employers and/or, as the case may be, their legal representatives, as well as from other persons who may give information on the subject of the control

5. take, in order to carry out analyses in specialized laboratories or for the administration of samples, samples of products, materials or substances manufactured, used, stored, handled and to notify the holder or employer about this;
6. to order the employer to carry out measurements, assessments, and surveys for the prevention of some events or to establish the causes of the events produced, as well as the verification, by competent bodies, of the levels of concentration of agents at the workplaces;
7. to take the necessary samples of the products for which market surveillance is carried out, and if they deem it necessary, to decide the destruction or removal of products which pose a serious risk;
8. to order the employer measures, in order to remedy in a determined time, the non-conformities found;
9. order the prohibition, restriction, withdrawal of a product from the market or its recall, specifying the reasons for this decision;
10. order to stop the activity or stop the work equipment from operation, if it finds a serious and imminent state of danger of injury or professional illness, and to notify, as the case may be, the prosecution bodies;
11. order the suspension or withdrawal of the operating authorization;
12. to apply distinctive signs with a seal value, under the conditions provided by law, by virtue of the state authority with which it is invested, during and in connection with the performance of duties;
13. to notify the prosecution bodies about the cases or situations of violation of the legal provisions in the field, when there are indications of committing a crime;
14. to find contraventions and to apply sanctions provided by the legislation in force;
15. to request and receive unconditionally support from authorities and institutions of public order and protection, as the case may be, in carrying out the control.

Obligations and incompatibilities.

Since the moment of their recruitment, Romanian Labour Inspectors shall be obliged to have no interest, directly or indirectly, of whatever nature it may be, in the entities that are subject to their control.

In addition, in the performance of their duties, labour inspectors shall not disclose the manufacturing secrets and, in general, the operating procedures, which they could become aware of in the exercise of their functions, both during the existence of the service relations and for 2 years after the date of their termination.

They are also obliged to maintain confidentiality on the identity of the person who signals non-compliance with the legal provisions and not to disclose that a given inspection visit follows a referral or complaint.

Sanctions

Article 19, letters n) and o) of Law 108/1999 entrusts labour inspectors with the powers to notify the prosecution bodies about the cases or situations of violation of the legal provisions when there are indications of committing a crime, as well as to apply sanctions provided by the legislation, which are immediately enforceable.

Against the decision of the labour inspector, the subject of the imposed sanctions can appeal, in accordance with the Article 20 of the Law 108/1999, which foresees that:

- The findings resulting from the controls and the investigation of the events, the measures, as well as the sanctions ordered by the labor inspectors are recorded by them in the minutes, the model of which is approved by decision of the inspector general.
- Appeals made against acts of an administrative nature concluded by labor inspectors shall be settled according to the provisions of Law of Administrative Litigation no. 554/2004.
- The complaints made against the minutes of finding and sanctioning the contraventions concluded by the labor inspectors are solved according to the provisions of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and additions by Law no. 180/2002, with subsequent amendments and completions.

In addition, Article 23 of the Law 108/1999 also provides for the effective enforcement of adequate penalties for obstructing labour inspectors in the performance of their duties, foreseeing that it constitutes contravention sanctioned with a fine of 5,000 lei to 10,000 lei:

- preventing labour inspectors, in any way, from exercising, in whole or in part, the control or carrying out the investigation of events according to the legal provisions by any action or inaction of the head of the unit, of the legal representative, of an employee, pre-placed or other person in the locations subject to control, including the refusal of the person found at work to complete the identification sheet or to give information about the investigated event;
- non-performance or partial performance by the controlled entity of the measures ordered by the labour inspector, at the deadlines set by the labour inspector;
- non-compliance by the head of the establishment, its legal representative, employees, proposed or other persons in the locations subject to control of the obligation to make available to the labour inspectors, within the deadline set by them, documents and information requested, necessary for the control or investigation of events.

It also foresees that the finding and sanctioning of the above contraventions shall be made by the labour inspectors.

Labour inspection policy, planning, monitoring, evaluation and reporting.

In order to respond as best as possible to the demands of its areas of interest, the Labour Inspection includes, in its strategy and annual program of actions, the priorities and objectives identified at national level based on the EU policy on employment, social affairs and inclusion. These have in mind, mainly, the control of the implementation of the labour legislation, including the right to free movement of workers, equal opportunities, working time, posting, informing and consulting workers, as well as controlling the implementation of legislation on safety and health at work.⁹³

On 28 November 2022, the Labour Inspectorate approved and adopted “The Framework program of the Labour Inspection for 2023”⁹⁴. It comprises the annual plan of actions on occupational safety and health, national campaigns on labour relations and planned control activities in these areas.

Annually, the Labour Inspectorate prepares and publishes its Report⁹⁵. It includes the information and statistics related to the activity of the institution, as requested by the legal provisions and in line with Articles 20 and 21 of the ILO [Labour Inspection Convention](#), 1947 (No. 81), Articles 26 and 27 of the ILO [Labour Inspection \(Agriculture\) Convention](#), 1969 (No. 129), and paragraphs 21 to 23 of the ILO [Labour Inspection Recommendation](#), 1923 (No. 20).

⁹³ [Annual report of the Labour inspection for 2021](#) (Romanian).

⁹⁴ [The Framework program of the Labour Inspection for 2023](#) (Romanian).

⁹⁵ [Annual report of the Labour inspection for 2021](#) (Romanian).

Activities of labour inspectors

In the field of labour relations, labour inspectors carried out 70,404 controls in 2021 and issued 89,762 mandatory measures to remedy the non-conformities detected.

To remedy the deficiencies identified, in 2021, the labor inspectors applied 13,392 warnings and 8,702 fines in the amount of 108,146,500 RON (approx. 23 510 000 USD). The high proportion of warnings emphasizes the preventive nature of the control actions carried out by labor inspectors.

In addition, 970 fines and 524 warnings were applied in 2021 to 1,431 employers, with reference to the Law No. 108/1999, in particular:

- 40 fines and 22 warnings, for preventing labor inspectors from exercising their control duties;
- 426 fines and 383 warnings, for failure to fulfill the measures ordered by the control minutes;
- 504 fines and 119 warnings, for non-compliance with the obligation to provide, within the established term, of the requested documents necessary for the control.

The total amount of fines applied based on the Law No. 108/1999, were 6,024,000 lei.

As for OSH, labour inspectors carried out in 2021 47,482 inspection visits to 47,157 employers. They time was mainly spent on preventive controls (56,049 allocated days), investigation of occupational accidents (16,336 days), desk activities (6,708 days), evaluation and determination of hazardous emissions (1,502 days), follow-up on notices and complaints (949 days), training (908 days), and provision of advice and expertise (183 days).

Furthermore, 67,063 sanctions on OSH were applied in 2021, in the total amount of 18,984,300 RON (approx. 4,128,000USD), 243 workplaces saw their activities suspended, the operation of 175 work equipment was stopped, as 55 notifications were submitted to the criminal investigation bodies.

In addition, during 2021, Labour Inspectorate and territorial labor inspectorates have registered and resolved 44,603 petitions.

ANNEX II – TEMPLATE OF THE QUESTIONNAIRE

Questionnaire Comparison and analysis of the of labour inspection systems of Romania, Tajikistan and Uzbekistan

A. Mandate, functions, and scope

Q1: According to the legal provisions in your country, the system of labour inspection shall apply to (multiple choice possible):

- a) Private sector
- b) Public administration sector
- c) Limited categories of workplaces (please list those categories)
- d) All workplaces

Q2: According to the legal provisions and practice in your country, the mandate of labour inspection addresses aspects related to (multiple choice is possible):

- a) wages, working hours and other labour relations aspects
- b) occupational safety and health (OSH)
- c) employment of children and young persons, and other connected matters
- d) enforce legal provisions on the aspects above
- e) supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions
- f) Bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions

B. Structure, organization, collaboration and cooperation

Q3: The labour inspectorate is organized as follows:

- a) part of the structure of a central authority (Ministry of Labour, Government, other...)
- b) independent structure under subordination/coordination of a central authority

Q4: The labour inspectorate is structured as follows:

- a) central management structure an territorial/local branches/offices
- b) only decentralized structure under subordination/coordination of the local authorities

Q5: There is an effective cooperation between the inspection services and other government services and public or private institutions engaged in similar activities?

- a) YES (please list)
- b) NO

Q6: There is an active collaboration between officials of the labour inspectorate and employers and workers or their organisations?

- a) Yes, at the national, local and enterprise level
- b) Yes, only at the national level

- c) Yes, only at the enterprise level
(please briefly exemplify for the above)
- d) NO

C. Labour inspection policy, planning, monitoring, evaluation and reporting.

Q7: Labour inspection policy is annually developed and implemented to provide clear direction and guidance to the organization's mandate and priorities?

- a) YES
- b) NO

Q8: The planning and implementation of labour inspection activities are followed by monitoring and evaluation measures, based on parameters and indicators (quantitative and qualitative)?

- a) YES
- b) NO

Q9: The central inspection authority publishes an annual general report on the work of the inspection services?

- a) Yes, annually
- b) Yes, randomly
- c) NO

D. Labour inspectors' status, conditions of service, recruitment, training, career, etc.

Q10: To guarantee labour inspectors independence and impartiality, which are indispensable in the exercise of their functions, in your country they benefit of the status of public officials?

- a) YES
- b) NO

Q11: In your country, in order to ensure the integrity of labour inspectors, conditions of service for these officials facilitate employment stability and personal security in the exercise of their functions?

- a) YES
- b) NO

Q12: In your country, Labour inspectors' remuneration is commensurate with their responsibilities, and consistent with that of other civil servants at comparable levels?

- a) YES
- b) NO

Q13: In your country, there are appropriate and effective legal protection provisions for inspectors against violence, harassment or intimidation during the course of their work?

- a) YES
- b) NO

Q14: In your country, the recruitment process of labour inspectors is based on the principles of transparency, equality, merit and ability?

a) YES

b) NO

Q15: In your country, labour inspectors benefit from appropriate initial training before initiating functions?

a) YES. The initial training has the duration of:

i. Up to 3 months

ii. Up to 6 months

iii. Between 6 months and 1 year

iv. More than 1 year

b) NO

Q16: In your country, labour inspectors benefit from appropriate periodical or continuous training?

a) YES. Per year, labour inspectors have, on average:

i. Less than 8 hours of training

ii. Between 8 and 24 hours of training

iii. Between 24 hours and 40 hours of training

iv. Between 40 hours and 80 hours of training

v. More than 80 hours of training

b) NO

Q17: In your country, the labour inspectors are generalists, or are specialists?

a) Generalists (with competences in all areas of the mandate of the labour inspectorate)

b) Specialists - specialized in one (or more) of the following specific areas of the mandate of the labour inspectorate:

i. OSH

ii. Labour relations

iii. Social protection

iv. Employment

v. Others (please specify)

Q18: By national legal provisions, conflicts of interest are regulated/prohibited for the labour inspectors?

a) YES

b) NO

E. Means and resources (facilities, number of labour inspectors, types of labour inspectors, IT systems available, transport, etc.)

Q19: Enough material resources and other necessary facilities (ex. Transport, premises, desktops, laptops, tablet, mobile phones, etc.) are allocated, creating the necessary conditions for labour inspectors to perform their duties in line with their mandate?

- a) YES (please specify)
- b) NO

Q20: How many personnel are employed by the Labour inspectorate in your country?

- a) Management:.....
- b) Labour inspectors:
 - i. If generalists:
 - ii. If specialists, on:
 - ✓ OSH.....
 - ✓ Labour relations.....
 - ✓ Social protection.....
 - ✓ Employment.....
 - ✓ Others (please specify).....
- c) Administrative staff:.....

Q21: Do you consider the number of the labour inspectors is sufficient to secure the effective discharge of these duties?

- a) YES
- b) NO

F. Powers of labour inspectors, methods of inspection, number and types of inspection

Q22: In your country, labour inspectors have free initiative to carry out inspection visits?

- a) YES
- b) NO, because (multiple choice possible):
 - i. There is a moratorium on inspection visits
 - ii. Only on the grounds foreseen in legislation
 - iii. Only if the inspection visit is approved by other government or State entity/body
 - iv. Only if they prior register the inspection visit and the respective order is signed

Q23: In your country, labour inspectors are empowered to (multiple choice is possible):

- a) enter freely and without previous notice at any hour of the day or night any workplace liable to inspection
- b) to carry out any examination, test or enquiry which they may consider necessary
- c) to require the production of any books, registers or other documents, and to copy such documents or make extracts from them
- d) to enforce the posting of notices required by the legal provisions
- e) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified
- f) to take steps with a view to remedying defects observed in the enterprise
- g) to take measures with immediate executory force (e.g., suspension of works) in the event of imminent danger to the health or safety of the workers
- h) be notified of industrial accidents and cases of occupational disease

- i) inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions
- j) decide whether to give warning and advice or to institute or recommend proceedings

Q24: The number of inspection visits per labour inspector is:

- a) less than 5 inspection visits per month
- b) 5-10 inspection visits per month
- c) More than 10 inspection visits per month

Q25: Adequate penalties for violations of the legal provisions enforceable by labour inspectors are provided for by national laws or regulations?

- a) YES
- b) NO

Q26: Adequate penalties for obstructing labour inspectors in the performance of their duties are provided for by national laws or regulations?

- a) YES
- b) NO

Q27: Penalties for violations of the legal provisions enforceable by labour inspectors may be applied by labour inspectors:

- a) Immediately, upon detection of the infringement
- b) Only if the employer does not comply with the labour inspector's warning to correct the infringement or labour inspector's notice to take measures
- c) Other (specify)

Q28: Number, nature and scope of inspection visits in 2020 and 2021:

Inspection visits	2020	2021
Nature		
First visits		
Follow-up visits		
Total		
Scope		
OSH		
Labour relations		
Others		
Total		

Q29: Employed population in 2020 and 2021:

Inspection visits	2020	2021
Dependent workers		

Inspection visits	2020	2021
Self-employed workers		
Informally employed workers		
Total		