

Committee on the Application of Standards

CAN/PV.23

Commission de l'application des normes

12.06.24

Comisión de Aplicación de Normas

112th Session, Geneva, 2024

112^e session, Genève, 2024112.^a reunión, Ginebra, 2024

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

Avertissement: ce document est un projet, qui peut comporter des omissions ou des erreurs et n'est rendu public qu'à des fins de vérification et de rectification. Les mentions contenues dans ce document provisoire n'engagent pas les personnes dont les propos sont rapportés. La responsabilité du BIT ne saurait être engagée à raison des éventuelles erreurs et omissions entachant ce document, ou de l'utilisation qui pourrait en être faite par des tiers.

Advertencia: el presente documento es un proyecto y puede contener omisiones o errores. Solo se publica a efectos de comprobación y rectificación. Las declaraciones que se atribuyen en el presente documento provisional a las personas citadas en él no comprometen su responsabilidad. La OIT queda exenta de toda responsabilidad respecto de cualquier error u omisión que pudiera figurar en el presente documento o que pudiera derivarse del uso del documento por terceros.

22nd sitting, 12 June 2024, 10.05 a.m.**22^e séance, 12 juin 2024, 10 h 05****22.^a sesión, 12 de junio de 2024, 10.05 horas**

Chairperson: Mr Różycki

Président: M. Różycki

Presidente: Sr. Różycki

Discussion of individual cases (*cont.*)**Discussion des cas individuels (*suite*)****Discusión de los casos individuales (*cont.*)****Kazakhstan (ratification: 2001)**

Labour Inspection Convention, 1947 (No. 81)

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Convention (nº 81) sur l'inspection du travail, 1947

Convention (nº 129) sur l'inspection du travail (agriculture), 1969

Convenio sobre la inspección del trabajo, 1947 (núm. 81)

Convenio sobre la inspección del trabajo (agricultura), 1969 (núm. 129)

Chairperson – I am very pleased to see you back today at this 24th sitting of our Committee on this World Day Against Child Labour.

This morning we will be concluding the discussion of the 24 individual cases on our Committee's agenda with the examination of the two last cases: Kazakhstan on Conventions Nos 81 and 129; and Mexico on the Equal Remuneration Convention, 1951 (No. 100).

The examination of these last two cases will be followed by the adoption of the draft outcome of the discussion by the Committee of the General Survey entitled "Labour Administration in a Changing World of Work" and the adoption of the conclusions on the first 11 individual cases.

For your information, the draft General Report of the Committee (document D.4) is now available in our Committee's web page. The General report will be adopted by our Committee tomorrow morning.

Also, the verbatim PVs – Gambia for the Minimum Age Convention, 1973 (No. 138), and Georgia for Convention No. 100, are now available on the Committee's web page. The Committee members may submit amendments to the Committee secretariat by tomorrow, Thursday, 13 June at 10 a.m.

Before we start the examination of the individual cases, I would like to remind you one last time to send your statements in advance by email to the following address: can-interpret@ilo.org. This will greatly assist the work of the interpreters. Moreover, to facilitate their work, we would also be grateful if you could speak at a reasonable speed when delivering your statements.

The first individual case in our agenda is Kazakhstan on the application of the Labour Inspection Convention, 1947 (No. 81), and Labour Inspection (Agriculture) Convention, 1969 (No. 129).

I kindly invite the Government representative of Kazakhstan, Mr Akmadi Sarbassov, Vice-Minister of Labour and Social Protection of Population, to take the floor.

Interpretation from Russian: **Government representative (Mr SARBASSOV)** – Mr Chairperson, distinguished members of the Committee, allow me to express gratitude for having this opportunity to take the floor today on behalf of the Republic of Kazakhstan at this meeting of the Committee. Our Government attaches great importance to issues of application of labour standards, and we are of course grateful for the support and partnership that has been shown to us on an ongoing basis by the International Labour Organization (ILO). We acknowledge the importance of ratified Conventions Nos 81 on labour inspection and 129 on labour inspection in agriculture, and we take note of the comments expressed by the Committee of Experts with regard to the current situation in Kazakhstan and the actions of the State Labour Inspectorate.

I would like to dwell first on the topics which are the subject of the current consideration. Firstly, with regard to the moratorium on state labour inspection activities, I should indicate at this point, that the moratorium that was brought in by presidential order on 1 January 2020, was aimed at improving the conditions of development of small businesses and only affected small businesses. This moratorium was extended until the end of 2022. I should indicate here that the State oversight system has three forms. General checks are one of them, preventive controls with visits are another, and this moratorium only affected this second form of inspection – the so-called preventive controls with visits. Accordingly, limitations were imposed on that type of preventive control in the micro-business and small business arena. According

to the statistics of 2023, over 6,000 checks were carried out and, of those, a little over 100 were to this type of business. Accordingly, the number of visits to small businesses was clearly limited. All the other inspections at the request of the trade unions and workers themselves are aimed at protecting the health and life of workers, and there were no limits imposed on that form of inspection, so as to uphold the labour rights of our Kazakh workers. Over the period covered by the moratorium, 22,000 inspections were carried out and some 12,000 violations were found. 13,000 warnings were handed out, with a total sum of 1.2 million Tenge in administrative fines imposed, meaning that the inspectorate was operational and carrying out its functions fully. At the current time, there are no limitations on these two types of inspections anymore. As of 1 January 2024, the moratorium has been fully lifted. This is the first issue I would like to address.

Secondly, regarding the regulatory backdrop for direct inspections, we currently have two oversight systems in place. The first is, of course, control in the form of an internal audit, and the second, what is known as public controls initiatives by trade unions. More than 18,000 such checks have taken place and more than 24,000 technical inspections are in operation. I turn now to the State Labour Inspectorate. As such, it discharges State functions, carrying out a significant number of inspections. This is ongoing. We are also working to enhance the operation of our labour inspectorate with the introduction of an automated system to identify dubious, suspect workplaces where violations could take place, with an IT system that enables us to decide where to undertake inspections with the data in hand. This enables us to react and take corrective measures if necessary. We take note of all the comments as to the need for a fuller mandate to be given to labour inspectors to undertake unscheduled inspections at their own free initiative. I will return to this when it comes to our regulatory framework. With regard to investigations of accidents, there are no limitations at all on them, with the relevant investigations being undertaken in specific cases. In terms of the number of preventive

inspections, this is defined based on the degree of risk of workplaces, with measures to review this and to ensure more often, that inspections are carried out at the relevant time and place. We are also planning to improve the risk assessment system such that labour inspectors are able to identify and prevent risks in the workplace, and to rapidly react. This would include conveying cases to the judicial and law enforcement bodies. With regard to direct oversight, the State Labour Inspectorate is being strengthened by all means possible from our part. In 2023, some 1,500 cases were transmitted to the law enforcement authorities, and 140 criminal cases were launched as a result. Regarding relation to ill-faith employers who were not applying the rules, over 2,300 checks were carried out. In addition to that, numerous violations were uncovered with some 1,400 warnings issued and significant fines imposed, in addition to certain numbers of cases being transmitted to the law enforcement authorities. In addition, with the oversight system, measures are being taken to introduce the Vision Zero approach to accident prevention, and we have more than 18,000 enterprises now involved in this Vision Zero programme. We have brought about changes to the Labour Code in order to ensure general coordination of work to apply and enforce labour standards in the workplace. At the same time, we have put in place vertical oversight on building sites. More than 3,000 enterprises have committed to implementing special occupational safety and health standards, while also putting in place systems of risk assessment.

Employers also have access to an online labour consultancy system to enable all employers to undertake a self-check on compliance with labour legislation, with more than 13,000 employers already accessing the system and using it. With regard to the comprehensive analysis of labour inspectorate work and accountability under Conventions Nos 81 and 129, we have an Annual Report which is discussed in the tripartite commission under the Prime Minister, with information broadcast in the media and to global labour inspectorate bodies. With regard to legislation, I can tell you that the Parliament is currently debating relevant

legislation, with social partners involved in this discussion. In addition, a number of changes are anticipated. The main one of these is the transfer of labour inspectorate powers from local authorities to a direct, vertical control structure deriving from the Ministry of Labour and Social Protection of Population, and in the coming months there will be a single body, a labour inspectorate system with local sections covering the entire territory, with the material and technological vehicles to make this change happen. For our labour inspectorate, we hope that this Bill has already been adopted by the Lower-House of Parliament, and will also be approved by the Upper-House and signed by the Head of State into law. In addition, as part of work to enhance our legislation, we are making efforts to define the relevant accountability and responsibility of the parties in the event of accidents, with clear-cut instructions for medical organization, labour inspection, the identification of accidents in the workplace and support for potential victims of accidents, also, probably, defining powers in the healthcare sphere, as well as guidelines for assessing the degree of injury of workers. All of those regulations are being considered by the Lower-House of Parliament at the current time. In addition, all of those issues are subject to ongoing review with our social partners and we would like to express our immense gratitude to the ILO for its support. I can tell you that in fact, today, we have signed with the ILO a road map for support to true decent work in the Republic of Kazakhstan. This has been signed by all our social partners, some of whom are here today. This includes five key areas of work, for joint work, and one of the key areas is a safe and healthy workplace, to be achieved through overcoming shortcomings in labour inspection. This is to be implemented in the coming years and we hope that we will be able to achieve notable results. As part of this, we will of course reassess our existing legislation and practice once again, ensuring that it comes into line with the provisions of Conventions Nos 81 and 129. We trust that we will receive ongoing technical support from the ILO in order to improve and harmonize our domestic legislation on labour inspection with the Conventions. I should once again like to assure the

Committee that the Government of Kazakhstan will take all steps to overcome the problems that have been identified and ensure that our legislation is in line with ILO standards. We will work in close cooperation with the ILO and all other interested parties in order to improve conditions of labour and to protect the rights of workers.

Chairperson – Before giving the floor to the next speaker, I am pleased to inform the Committee that the Employer Vice-President of the Conference has honoured us with his visit. Mr Rajeev Dubey, you are very welcome to join our Committee and we are honoured to have you with us. Now I give the floor to Mr Tjalling Postma, Workers' spokesperson to make his statement.

Worker members – Our Committee's attention has often been focused on examining the Government of Kazakhstan's complying with Convention No. 87. The situation regarding respect for trade union freedoms in Kazakhstan has always been of concern to us all. Numerous initiatives are nevertheless underway to resolve the problems of compliance noted in this respect.

The situation of respect for trade union freedoms is certainly not unrelated to the situation of respect for Conventions Nos 81 and 129 in the country. An environment conducive to the exercise of freedom of association would certainly enable progress to be made in many areas of work, including labour inspection. Labour inspection plays a fundamental role in ensuring decent working conditions for workers. It is therefore essential to provide its inspection services with all the necessary means to function optimally and ensure the protection of workers. It has come to our attention that in this regard, the capacities of the labour inspection in Kazakhstan have been decreasing, with nowadays only 225 labour inspectors for the whole country.

This is the first time that our Committee examines the application of these Conventions in Kazakhstan. The Committee of Experts has made a number of observations which point to failures to comply with these Conventions.

The most troubling of these is the moratorium on inspection services in Kazakhstan, which was in force until 1 January 2024. The problem of moratoria on inspection services, while apparent in the case of Kazakhstan, is nevertheless endemic to the region. We fear that this moratorium could be reintroduced at some point, as we have sadly already seen in another country of the region after examination of its case before our Committee.

However, the Committee of Experts' 2019 General Comment on Convention No. 81 recalls that any moratorium imposed on labour inspection is a serious violation of the Convention. Such a moratorium considerably weakens the inherent functioning of labour inspection, to the detriment of decent work and the protection of workers' rights.

More specifically, the moratorium in Kazakhstan applied to labour inspections in private and public enterprises that fall into the categories of small and micro enterprises, with a few exceptions provided for in very restrictively enumerated cases. Furthermore, on the basis of the EntrepreneurCode, the Government is empowered to suspend State supervision and control of private commercial entities for a certain period.

It also appears that when labour inspectorates receive complaints, their intervention is not in practice decisive in bringing about a rapid, effective and appropriate solution to the subject of the complaint. For example, the observations of the Trade Union of Workers in the Fuel and Energy Complex show that the labour inspectorate has only been able to help complainants formulate their complaints for submission to the court, and to write to employers about the need to comply with labour legislation, without this having any legal consequences as regards the infringements found.

In addition to this moratorium, labour inspectors suffer from other limitations and restrictions to their powers.

The first of these is the requirement for labour inspectors to register scheduled inspections 30 days in advance, and unannounced inspections 24 hours in advance, with the public prosecutor, who has the right to refuse registration. It is regrettable to note that the Government has given in to the Public Authority for Enterprises and employers' representatives, who have refused to implement the measure to allow workplace inspections without prior warning, even though this measure was provided for in the Action Plan to guarantee safety at work.

Another important restriction on the power of labour inspectors is the strict definition of the frequencies and types of inspection possible in the country. The maximum inspection frequency is determined according to the risk identified by the risk assessment and management system. Different risk-based categories of employers are defined based on that system.

The minimum inspection frequency is also defined according to those risk-based categories. However, no minimum inspection frequency has been set for low-risk employers. Employers in this risk category are thus not subjected to scheduled monitoring and inspection activities.

Despite the revision of the Entrepreneur Code at the end of 2022, it still contains restrictions on the powers of labour inspectors, particularly as regards their ability to carry out inspection visits without prior warning, their free initiative and the scope of the inspections they can carry out. Only the conditions set out in the established checklist may be subject to verification and preventive control.

Another important restriction is that laid down in article 12 of the Entrepreneur Code, which allows employers to deny the inspection by officials of state control and supervision bodies. This right to deny is likely to render ineffective the provisions on penalties for obstructing the work of officials from the State inspectorate and other state supervisory and control bodies. Labour inspectors who take control initiatives that go beyond the strict framework of regulations governing the organization and conduct of inspections are liable to disciplinary action. Other provisions stipulate that inspections carried out without prior warning and without respecting the prescribed notice period are considered invalid.

It is also stipulated that labour inspectors may not impose immediate sanctions if they discover infringements during preventive inspections. In such cases, they can only issue a warning. Similarly, rapid reaction measures can only be taken in cases identified by law and for violations of items on the inspection checklist.

However, the Conventions stipulate that, with certain exceptions, persons who violate or neglect to observe the legal provisions whose application is subject to the control of labour inspectors, are liable to immediate legal action, without prior warning, and that it is left to the discretion of labour inspectors to issue warnings or give advice rather than initiate or recommend prosecution, and that labour inspectors are authorized to take measures to eliminate defects in installations, fittings or working methods which they may have reasonable cause to consider a threat to the health or safety of workers. In that regard, we are of the view that labour inspection should have the capacity to act upon signals received from workers or their representatives about occupational hazards they are facing. If the labour inspectorate had been more responsive, many of the particularly serious accidents that have occurred recently in Kazakhstan could have been avoided.

We also note with concern that no annual report on the activity of the labour inspection services has been transmitted to the ILO since the ratification of the Conventions in 2001.

All these elements constitute serious breaches of the Conventions Nos 81 and 129, and the Government of Kazakhstan will have to ensure that its legislation and practice comply with those Conventions.

Chairperson – Now I invite Mr Paul Noll, Employer spokesperson to take the floor.

Employer members – The Employers' group has taken note of the information provided by the Government and would like to thank the distinguished representative for the explanation provided.

Kazakhstan has ratified Convention No. 81 and Convention No. 129 in 2001. The Committee of Experts has made observations on this case in 2015, 2021 and 2023. Today is the first time the Committee examines the application of Conventions Nos 81 and 129 by Kazakhstan. From the outset the Employer members want to highlight the importance of Convention Nos 81 and 129, which are governance conventions, which have received 150 and 57 ratifications.

The case consists of five parts. The first is about the moratorium on labour inspections. The moratorium had been in place since January 2020 and applied to labour inspections for small and micro-enterprises. It should be noted that practice had shown that the introduction of the moratorium did not affect large and medium-sized enterprises, where inspections have been carried out. Furthermore, the moratorium on inspections for small and micro-enterprises is no longer in force. It ended on 1 January 2024.

According to information provided by the Government on 20 May 2024, since then, state labour inspectors have conducted 2,366 inspections nationwide, uncovering 3,144 violations. These inspections led to 1,409 instructions issued to companies and 1,780 administrative fines.

As of 1 April 2024, there are 276 units of state labour inspectors in the staff of local labour inspection bodies. The second part is about other restrictions on inspection powers. The Committee of Experts noted in its recent report that restrictions to the powers of labour inspectors established by the Entrepreneur Code of 2015 are still in force. These limitations affect, inter alia, the ability of labour inspectors to undertake inspection visits without previous notice and the free initiative of labour inspectors.

The Committee also noted that labour inspectors are liable to disciplinary proceedings if they fail to respect the provisions in relation to prior notification of the inspection to the subject of control, or if the deadline for such notification is not respected.

In its recent written report from 20 May 2024, the Government informed that a draft Law “On Amendments and Additions to Certain Legislative Acts on Improvement of Safe Labour Conditions and Protection of Labour Rights of Employees” has been prepared. It would empower the state labour inspectors to conduct inspections without prior notice in the field of safety and labour protection at dangerous production facilities. However, in this regard it should be noted that the proposal to transfer the state labour inspection from local executive bodies to the Ministry has been approved. The Ministry of Labour and Social Protection of Population is carrying out preparatory work to establish a separate Committee of the State Labour Inspection with subdivisions in the regions.

A detailed action plan for the establishment of a State Labour Inspection Committee in the Ministry has been developed and is being implemented. However, we ask the Government to provide further detailed information on restrictions to the powers of labour inspectors and to take the necessary initiatives to bring the laws in conformity with Article 12 paragraph 1 of Convention No. 81.

The third part is about adequate penalties. The Committee of Experts noted limitations imposed by the Entrepreneur Code with respect to the powers of labour inspectors to ensure the effective application of legal provisions. In particular, the Committee noted that the Code provides that in case of violations identified in the course of preventive inspections, the inspectors are obliged to issue a warning without the possibility of initiating proceedings. According to information provided by the Government on 20 May 2024, in 2023, the labour inspectorates conducted 6,927 on-site inspections. 173 inspections were carried out on a scheduling order and 6,754 inspections were carried out on the basis of applications received. As a result of these inspections, 10,370 violations of labour legislation were identified, 4,369 orders to eliminate the identified violations were issued, and 2,401 administrative fines were imposed.

The Employers' group asks the Government to provide further detailed information about limitations imposed on the power of labour inspectors with regard to sanctions. Furthermore, we ask the Government to take necessary measures to ensure that labour inspectors do not encounter undue obstruction while performing their duties.

The fourth part is about the right to deny the inspection. The Committee of Experts argued that the Entrepreneur Code includes a provision that provides for the right of companies to deny the inspection by officials of state control and supervision bodies. It requested the Government to take the necessary measures to ensure that labour inspectors do not encounter undue obstruction while performing their duties. The Employers' group has taken note. We request the Government to provide detailed information on the issue and on the number of cases in which inspectors have been denied access to workplaces.

The fifth part of this case is about reporting. The Committee of Experts noted that since the ratification of the Conventions in 2001, the ILO has not received an annual report on the

activities of labour inspection services. According to Article 20 of Convention No. 81 the central inspection authority shall publish an annual general report on the work of the inspection services under its control and copies of the annual reports shall be transmitted to the ILO within a reasonable period after their publication and in any case within three months. The Government announced that the Ministry of Labour and Social Protection of Population is working on a comprehensive annual report on the work of labour inspections for 2023. They stated that this report will be submitted to the ILO. The Employers' group welcomes this development. We ask the Government to walk the talk and to submit an annual report to the ILO in accordance with the respective time limits.

To conclude, the Employers' group welcomes the expressed willingness and shown commitment of the Government. We encourage and ask the Government to effectively consult with the representative employers' and workers' organizations concerning all measures and initiatives they take regarding the application of Conventions Nos 81 and 129.

Chairperson – I give the floor to Mr Satybaldy Dauletalin, Worker's delegate from Kazakhstan.

Interpretation from Russian: **Worker member, Kazakhstan (Mr DAULETALIN)** – Dear Chairperson, distinguished participants and colleagues, I am grateful to the ILO for ensuring that the issues with regard to Convention No. 81 can be discussed today.

The fact that we are on the short list gives us the opportunity to broaden horizons and exchange practices, learn best practices from other states and take on board the methods of working mechanisms of the ILO.

Over the recent years, we, with the social partners, have been able to [microphone was off] I will dwell on the compensation model under the labour protection system and the OSH concept and in addition, the centralization of the labour inspectorate with a single state

inspectorate and transfer paths from the local authority. Here it's important to note that this is in line with Convention No. 81 and avoid any potential negative influence at the local level on labour inspectorate.

As of 1 January 2024, the moratorium on inspections of smaller microenterprises has been lifted. It is important to note that this will not affect the inspectorate system based on complaints. Further work will be ensured to assess the remit of inspectors, as promoted by the trade unions. That said, problems do remain in terms of the numbers of labour inspectors and the powers that they have, that are highly limited under the Entrepreneur Code.

There are currently only 245 inspectors, and this means that they do not have the possibility to fully discharge their functions. The requirements of the Entrepreneur Code, curb their powers with a ban on registered inspections. These have to be registered with the authorities and the employers need to be informed. I trust that we will be able to work in the coming times on this issue, bringing about substantive changes to the legislation. This is important to us. We need to ensure that this will be done within the framework of social dialogue and partnership, bearing in mind the opinions of trade unions.

The federation of trade unions will, as it has done before, continue to work to ensure safety in the workplace on the basis of specific assumptions. People should not be killed or injured at work. You should not die as a result of trying to earn a living in a workplace and any improvement in occupational safety and health is something that we will of course always welcome. We look forward to future cooperation with the ILO and the necessary technical assistance to this end.

Chairperson – I give the floor to Mr Aidos Abikhanov, Employers' delegate from Kazakhstan.

Interpretation from Russian: **Employer member, Kazakhstan – (Mr. ABIKHANOV)** – I am delighted to greet you in my statement. I would like to first and foremost thank the ILO for its cooperation and support. We take note of the recommendations of the Committee in recent years and the steady progress made in social dialogue in Kazakhstan. I am a delegate of the Employers of Kazakhstan, I represent their interests on behalf of the National Confederation of Employers. Our confederation has been recognized by the ILO as an independent employers' organization. This independence is a core value of ours in our work with our social partners we work at the practical level of social dialogue at the national and regional levels.

I would now like to move to a set of comments on the Committee of Experts' remarks on the application of Conventions Nos 81 and 129. In order to enhance the development of micro- and small enterprises, a moratorium was imposed as of 1 January 2020 on preventive controls with visits for this type of enterprise. Practice has shown that over this period there was no effect of the moratorium on large and medium-sized enterprises where periodic inspections continued, of course we are guided by and welcome international labour standards and partnership with social partners and the ILO. We are taking efforts to implement best practices, and this includes the standards covered in Conventions Nos 81 and 129, but at the same time, as an employers' organization we are always in favour of ensuring balance. As such when it comes to taking important decisions, we should take into account all aspects including the willingness and ability of state bodies to implement standards under the Conventions. We consider that the limited powers of inspectors could lead to both positive and negative consequences. Statistics also speak about this.

During the period of the moratorium, we saw that there was a positive impact on the subjects being inspected. There was a more than two-fold reduction in the number of inspections in 2023 compared to 2019 while there was almost a 70 per cent increase in numbers of small businesses in existence. With this in mind, I think we need to move towards

a more effective way of implementing ratified Conventions and results can be seen in this regard also, for example, as of 1 January 2024, when there was a full lifting of the moratorium, with no further restrictions currently in force on the work of labour inspectors.

Turning to the comments on the limited powers of labour inspectors when it comes to the Entrepreneur Code, I would like to say the following: at the current time, preventing violations and the rationale for observance by businesses is set up by law, with priority attached to enforcement rather than compliance. This is a frequent trend in Kazakhstan but particularly in labour. We want to move towards a more preventive approach, but if there are repeated violations, fines may be applied as well as criminal proceedings if necessary. In line with the Entrepreneur Code, the labour inspectorate may undertake a preventive control, followed by an unscheduled visit with a further inspection if necessary, but this may take place only with 24 hours of warning in certain instances.

Pursuant to the law, inspections may not be refused. In addition we have seen that ever more violations have been uncovered by inspections; more than 10,000 in 2023. We, as Employer representatives, consider that things are going in the right direction and that there needs to be gradual change. If we want to radically expand the powers of state labour inspectors, then we need to think through the right system of checks and balances, since failing to do this properly could lead to a curb on entrepreneurial activity and increase in administrative burden.

There is a need to ensure, as we implement the Conventions, that the social partners be borne in mind. This has been seen, for example, in the transfer of powers from local to central level. We consider that this is another positive step forward. I would also like to note that as part of the work between the ILO and the social partners, a road map was signed to promote decent work in the Republic of Kazakhstan. In this road map, there are five strategic areas

covered: labour protection; social protection; employment; social dialogue; and tripartism. We consider the joint work with the ILO on this road map will enable us to improve our position vis-à-vis the comments issued by the Committee of Experts.

In conclusion, I would underscore that in our work we are guided by the ideas of tripartism where all partners work together in harmony and in the responsible way. Only in this way will it be possible to ensure civilized dialogue to the interest of all. We, for our part as Employers, are committed to this and we will put all our efforts and resources into these endeavours.

Chairperson – There are 21 speakers registered to take the floor. In this regards, I would like to inform all delegates that the Officers of the Committee have decided to reduce the speaking time for individual members of the Committee from five to three minutes. And now I give the floor to Ms Elise Lizin, the representative of Belgium, speaking on behalf of the European Union (EU).

Government member, Belgium (Ms LIZIN) – I have the honour to speak on behalf of the **EU and its Member States**. The candidate countries, **North Macedonia, Montenegro** and the European Free Trade Association (EFTA) country **Norway**, member of the **European Economic Area**, align themselves with this statement.

The EU and its Member States are committed to the respect, protection and fulfilment of human rights, including labour rights. We actively promote universal ratification and effective implementation of fundamental ILO Conventions and support the ILO in developing and promoting international labour standards and supervising their application.

The EU and Kazakhstan signed an Enhanced Partnership and Cooperation Agreement in 2020, advancing and strengthening cooperation with the country in key policy areas such as trade and investment, sustainable development, economic cooperation and employment and social affairs.

We note with concern that the moratorium on labour inspections for private and state-owned small and microenterprises introduced in January 2020 was further extended until January 2024. We deplore that based on information from national trade unions none of the complaints related to violations of labour rights in agriculture were inspected due to the moratorium. While we acknowledge that according to the recently submitted information by the Government the moratorium ended in January 2024, and that since then around 2,300 inspections have been conducted, we would be interested to know the reasons leading to the Government introducing this moratorium, which is a serious violation of the ratified labour inspections Conventions Nos 81 and 129. We also call on the Government to ensure that inspectors can conduct labour inspections as often and as thoroughly as necessary.

We note that the Entrepreneur Code prescribes prior registration of inspections with the Public Prosecutor's office, which can refuse registrations. Moreover, the Entrepreneur Code contains provisions that limit the free initiative of inspectors and their ability to conduct inspections without prior notice. We echo the Committee of Experts' call on the Government to take the necessary legislative measures to ensure that inspectors can undertake inspections without prior notice and conduct any examination they deem necessary. Moreover, following the revocation of section 197 of the Labour Code, we request the Government to indicate to the ILO whether inspectors are entitled to conduct inspections at any time of the day and night.

Concerning the frequency of labour inspections, we note that according to ITUC, there is no minimum frequency of inspections established for low-risk employers, who are therefore not covered by scheduled monitoring activities. In line with the Committee of Experts, we urge the Government to take the necessary measures to ensure that risk assessment criteria do not limit the powers of labour inspectors.

We remark that section 151 of the Entrepreneur Code stipulates that labour inspectors are not allowed to undertake inspections on elements that are not included in the inspection checklist, and that according to section 156, inspections are considered invalid in the absence of a prior notification to the concerned workplaces. Based on information from the Government, a draft law on safe labour conditions that would permit unannounced inspections is under consideration. However, we note that this provision would only apply to dangerous production facilities. As requested by the Committee of Experts, we ask the Government to revise the previously mentioned sections in line with Conventions Nos 81 and 129.

We also note that according to the Entrepreneur Code, in cases where violations are detected during preventive inspections, labour inspectors are obliged to issue a warning and cannot initiate proceedings, and that rapid response measures can only be adopted in the cases identified by the law and for violations of items included in the inspection checklist. In line with the Committee of Experts, we request the Government to take the necessary measures to allow inspectors to initiate legal proceedings without previous warning, and to provide information on the changes made on this matter.

Recalling that the Entrepreneur Code allows for employers to refuse inspections, we request the Government to take measures to ensure that the work of labour inspectors is not unduly obstructed.

We are concerned that no annual reports on the activities of the labour inspectorate has been received by the ILO since the ratification of both Conventions. We therefore welcome the Government's indication that the Ministry of Labour is preparing a comprehensive annual report on the work undertaken by labour inspectors in 2023. We encourage the Government to make this a regular practice and to transmit the reports to the ILO.

The EU stands ready to support Kazakhstan with the aim to strengthen the Government's capacity to address the issues raised and in meeting its obligations under the ratified Conventions.

Chairperson – I give the floor to Mr Hendrik Johannemann, Workers' delegate from Germany.

Interpretation from German: **Worker member, Germany (Mr JOHANNEMANN)** – Mr Chairman, I speak on behalf of the **German Trade Union Confederation**. In its Centenary Declaration of 2019, the ILO once again confirmed that labour inspection, as outlined in Conventions Nos 81 and 129, is a cornerstone of the ILO's strategy for a people-friendly future of work. This approach focuses on the rights and needs of workers, their protection and their health. The Committee of Experts, in its General Observation of 2019 on these Conventions, has established that several ILO States, particularly those in Eastern Europe and Central Asia, have adopted laws and decrees that contradict Conventions Nos 81 and 129 and undermine a proper functioning labour inspection system. Unfortunately, the Government of Kazakhstan, has also suspended a comprehensive labour inspection by Decree. This moratorium entered into force in January 2020–24 and affected small and micro-businesses.

We welcome the fact that the Kazakh Government has not extended the moratorium for labour inspection, and has brought itself into line with the legal requirements of Convention Nos 81 and 129 since then. However, in the past, we have had examples of countries who have reintroduced such moratoriums. For example, Tajikistan, only months after its case was discussed here in the Committee, suspended labour inspection against the recommendations. We call on the Government of Kazakhstan to refrain from moratoriums in the future and instead of this, in legal and administrative terms, to ensure that legal inspection and inspectors can carry out their work to ensure that the occupational safety and health of all workers in

Kazakhstan is guaranteed. Because, although the moratorium has expired, as was stated, there are other serious problems. As reported by the Trade Union of Workers in the Fuel and Energy Complex (TUWFEC), in many places, there have been no consequences for infringements against occupational safety and health for the enterprises. Moreover, in the area of agriculture, no inspections are carried out, although many complaints have been submitted to the labour inspection authorities. Furthermore, there are restricted powers of labour inspectors. The Kazakh Government must adapt its national law so as to ensure that inspectors can carry out their work as frequently as they so choose, and as thoroughly as is necessary, to ensure that the Conventions are upheld. We would like to emphasize the following: The hushing up of occupational accidents, wage arrears and labour disputes by enterprises must end. To this end, equipping the labour inspection authorities is essential. According to our information, there are only 225 state inspectors for the entire country.

We call on the Government to take more steps to improve labour inspection and firstly, this means to prepare a draft law, to ensure that the unions are involved in this, to centralize labour inspection, and thirdly, to put together an action plan. We call on the Government to continue these positive steps and to send reports to the ILO. At the same time, we call on the Kazakh employers to support these positive developments as well. The aforementioned action plan for safe working conditions has not received support by the Employer representative. For us it is very clear, there should be no lobbying against occupational safety and health. The desire for profit must not take precedence over occupational safety and health.

Chairperson – Now I give the floor to Mr Yusif Madatov, the representative of Azerbaijan.

Government member, Azerbaijan (Mr MADATOV) – The Azerbaijan delegation would like to thank the Government representative for providing replies to the questions raised by the Committee of Experts on the application of Conventions Nos 81 and 129. We welcome the

progress made by the Government in responding to the recommendations made by this Committee. We appreciate the initiated process of amending labour legislation in order to ensure the protection of workers. Kazakhstan is party to the international legal instruments on labour inspection and duly fulfils its international obligations in good faith. It should be noted that, through their work in providing guidance and information, by conducting inspections, the labour inspection services monitor the situation related to fundamental rights respecting labour relations and work conditions, and consequently play an important role in the enforcement of those rights.

My delegation welcomes the relevant information provided by the Government representative in the context of the efforts to ensure effective labour inspection and to ensure that workplaces are inspected as frequently and as thoroughly as necessary, particularly in relation to occupational safety and health. We welcome the decision taken by the Government to transfer the State inspection from local executive bodies to the Ministry of Labour and Social Protection of Population, as well as the initiative to empower the State labour inspectors to conduct inspections without prior notice in the field of safety and labour protection at dangerous production facilities. The measures outlined by the Government representative demonstrate Kazakhstan's efforts to give full effect to Conventions Nos 81 and 129. We appreciate that the Government had provided detailed information and statistics on labour inspections under various laws and regulations regarding working life. We also take note that the Government is working closely with the ILO to ensure that the legislative reforms are consistent with ILO Conventions, and we note the openness to address the comments of the supervisory bodies. We encourage the Government to continue working closely with the ILO to follow up on the Committee of Experts' recommendations. Finally, my country believes that issues relating to the general improvement of working conditions should be addressed as part of constructive and mutually beneficial dialogue with all actors, including representatives of

employers and trade union organizations. The Azerbaijan delegation commends Kazakhstan on the results obtained to date and encourages the Government to continue working to strengthen the capacity and resources of the labour inspection services, in line with the national legal system and the international labour instruments in force.

Chairperson – I give the floor to Mr Boris Kravchenko, Workers' delegate from Russian Federation, the floor is yours.

Interpretation from Russian: Worker member, Russian Federation (Mr KRAVCHENKO) – Mr Chairperson, the Workers' delegation of the Russian Federation thanks the Government of the Republic of Kazakhstan for the information provided. The Committee of Experts' report notes significant problems in the practical implementation of Convention No. 81. One of the main factors hindering the preventive role of the labour inspectorate in Kazakhstan, is of course the highly limited set of powers of the inspectors. The remit for inspections after agreement for action, was subject to agreement by the Public Prosecutor in the event of direct complaints, and this leads to refusal of inspections and ineffective work. The numbers of labour inspectors in Kazakhstan stands at 225, bearing in mind that there are more than 9 million people on the labour market, this is a two-fold deficit in comparison with what is provided for in Article 10 of Convention No. 81. In addition, the labour inspectorates are based in main urban areas, and this gives rise to problems in major industrial and agricultural areas of the country, particularly the more remote ones, as inspectors cannot react rapidly. In addition to this, they are subject to powers of local authorities in violation of the Convention. The financing of inspection comes from local budgets. This can lead to a dependent relationship as well as influence from local authorities or employers which we have seen, for example, in the numerous unfounded refusals to register trade union sections in the oil and energy complex, making it difficult for workers, effectively, to realize freedom of association due to a refusal to register, and this has led to a very negative result. There is a need, as we have seen, for reforms

through legislation broadening the powers of labour inspectorate such that it covers, and has a real impact on, all areas of life of work, including trade union rights. We should note that an effective state policy on labour inspection and protection directly depends on the implementation of the right of workers, including independent trade union membership, as well as the establishment of collective bargaining, and as such, we hope that the Government will continue its work to define the next steps for the proper implementation of the conclusions of the Committee on Freedom of Association and will ensure that proper oversight and enforcement of labour rights will be enforced.

Chairperson – I give the floor to Mr Ermek Turgunaliyev.

Government member, Kyrgyzstan (Mr TURGUNALIEV) – The Kyrgyz delegation expresses its gratitude to the Government of Kazakhstan, employers and trade unions for providing comprehensive information on the efforts and measures taken to comply with the international labour obligations.

We commend Kazakhstan for adopting the Concept of Safe Labour for 2024–2030, which aims to enhance the safety and well-being of workers. A key component of this Concept is to bolster worker protection by improving the activities of the state labour inspection. To increase the effectiveness of control and monitoring in labour protection, preventive inspections by the State Labour Inspectorate will be conducted only at enterprises where there is an objective risk to workers' life and health. This risk will be identified not manually, based on previous inspections and the type of activity of the enterprise, as it is currently done, but through the application of digital technologies. To facilitate this, a unified automated information system has been implemented to provide accurate data on occupational risks at workplaces. In conclusion, we sincerely thank Kazakhstan for its commitment to constructive dialogue with

the ILO and encourage the continuation of active engagement with ILO bodies for the common good.

Chairperson – Now I give the floor to Mr Vepa Hajiyevev, the representative of Turkmenistan.

Government member, Turkmenistan (Mr HAJIYEV) – Turkmenistan welcomes the distinguished delegation of the Republic of Kazakhstan and expresses its gratitude for providing detailed information on the current situation related to the implementation of Conventions Nos 81 and 129, as well as the related recommendations of the Commission of Experts.

At the outset, we would like to note the efforts made by the Government of Kazakhstan on ensuring decent working conditions through consistent scheduled and spot inspections on the basis of received applications.

At the same time, it is important to note that there are dozens of times more spot checks – based on appeals or complaints – than planned ones. This is a good indicator of the State's response to these issues.

We also would like to highlight the measures taken by the Government of Kazakhstan on improving the legislation, in particular concerning to the safe labour conditions and protection of labour rights of employees. It once again demonstrates the commitment of Kazakhstan to its obligations to promote decent work.

We believe that the mentioned State Labour Inspection Committee planning to be established within the Ministry of Labour and Social Protection of Population of Kazakhstan will give an additional impetus.

In conclusion, Turkmenistan wishes the Government of Kazakhstan a successful discussion.

Chairperson –I give the floor to Mr Yauheni Liadniou, the representative of Belarus.

Interpretation from Russian: Government member, Belarus (Mr LIADNIOU) – We thank the delegation of Kazakhstan for the detailed information on the question under consideration. We welcome the progress achieved by Kazakhstan in implementing the recommendations of the Committee of Experts, as well as the Kazakh Government commitment to partnership with the International Labour Organization.

We note the efforts of the Government of Kazakhstan to ensure the functioning of the State Labour Inspectorate, which monitors compliance with workers' fundamental rights and working conditions. The information provided on the number of checks carried out in 2023, as well as the violations uncovered, speak to the effectiveness for the work of this institution. In line with ILO recommendations, a decision has been made to transfer the functioning of Labour Inspectorates from local bodies to the Ministry of Labour and Social Protection of Population of Kazakhstan. In addition, the State Labour Inspectorate has been given powers to undertake unannounced inspections at potentially dangerous facilities. This will serve to further improve the general effectiveness of the oversight system and enforce the legislation in practice.

We believe that employers' and workers' organizations should, guided by tripartism, provide assistance to the Government in its efforts to improve working conditions both in industry and in agriculture. We call upon the ILO to continue to provide technical assistance to the Government of Kazakhstan in order to ensure further progress in protecting the rights and interests of workers.

Chairperson – I give the floor to Mr Batuhan Tavukçu, representative of Türkiye.

Government member, Türkiye (Mr TAVUKÇU) – We welcome the Kazakh Government's initiative to establish a more effective and coordinated as well as a separate labour inspection system under the relevant Articles of Conventions Nos 81 and 129.

We appreciate the initiated process of amending labour legislation, especially the empowerment of state labour inspectors to conduct inspections to ensure the protection of workers without prior notice at dangerous production facilities. We are confident that the Kazakh Parliament will enact the necessary amendments in this respect as soon as possible.

It is worth noting that the visionary conceptual framework document, which covers the next seven years, will lay the groundwork for a more institutionalized and effective functioning of the Kazakh labour inspection system and will serve to increase the level of protection of workers in a proactive approach.

The implementation of a unified automation information system by the Kazakh Government, which will ensure its operation in the light of stable and up-to-date information, should be considered a very important development by the Committee of Experts.

The measures outlined by the Kazakh Government within the constructive and mutually beneficial dialogue with all stakeholders demonstrate Kazakhstan's efforts to give full effect to Conventions Nos 81 and 129. We encourage the Government to continue working closely with the ILO to follow up on the Committee's recommendations.

Chairperson – I give the floor to Ms Manal Alkhaibary, the representative of Saudi Arabia.

Interpretation from Arabic: **Government member, Saudi Arabia (Ms ALKHAIBARY)** –The Kingdom of Saudi Arabia welcomes the progress achieved by the Republic of Kazakhstan in response to the recommendations made by the Committee of Experts.

We welcome the relevant information provided by the Government in the context of its efforts to ensure a regular, comprehensive and effective inspection at workplaces, especially in relation to occupational health and safety.

We note that the Government is working closely with the ILO in order to make sure that its legislative reforms are consistent with ILO Conventions, and that it is open to address the recommendations and observations of the supervisory bodies. We affirm that all measures related to ensuring good conditions at work should be addressed through constructive and effective dialogue with all stakeholders.

In conclusion, we commend the results achieved so far and we encourage the Government to continue its efforts to strengthen the capacities and resources of the labour inspection services in line with the national legal system and applicable ILO instruments.

Chairperson – I give the floor to Mr Tao Wang the representative of China.

Government member, China (Ms FENG, speaking for Mr WANG) – Sorry, Chairperson, the representative is on the way so I will replace him to speak. We appreciated the detailed presentations by the representative of the Government of Kazakhstan. We have carefully reviewed the Report by the Committee of Experts as well as the supplementary materials submitted by the Government to this Committee.

The Government of Kazakhstan is taking steps to move the national labour inspection functions from regional to national institutions. They are planning to establish a specific road map and to set up a national labour inspection's committee within the Ministry of Labour and Social Protection of Population. The Parliament of Kazakhstan is also drafting relevant legal amendments. In 2023, labour inspectors conducted nearly 7,000 on-site inspections under labour laws, including around 200 routine inspections and over 6,700 inspections upon

request. These inspections uncover over 10,000 violations of labour laws resulting in enforcement actions and other administrative fines.

It is commendable that the Government Kazakhstan has issued the Concept of Safe Labour for 2024–2030, continuously strengthening the implementation of labour inspections and enhancing worker protection. The Government is also leveraging digital technologies, alongside traditional methods, to effectively identify subjects for inspections based on past inspection records and on the nature of business operations. To achieve these goals, Kazakhstan is implementing unified automated information systems to promptly capture occupational risk data in workplaces. These efforts, measures and achievements should be acknowledged and encouraged by the Committee.

We support the ILO secretariat and its regular supervisory mechanism in strengthening communication and exchanges with the Government of Kazakhstan, continuously promoting mutual understanding and cooperation. We also support providing relevant and technical assistance to the Government as needed to help them improve their compliance capacity and further promote their economic and social development.

Chairperson – I give the floor to Mr Muhammad Abdullah, the representative of Pakistan.

Government member, Pakistan (Mr ABDULLAH) – We recognize the Republic of Kazakhstan for their comprehensive response to the questions raised by the Committee of Experts on the application of Conventions Nos 81 and 129. We acknowledge the progress made by Kazakhstan in addressing the recommendations of the Committee of Experts and welcome the initiative to amend labour legislation to further enhance worker protections. Pakistan welcomes the decision to transfer state inspection to the Ministry of Labour and Social Protection of Population and empower inspectors for unannounced inspections in high-risk workplaces. These measures demonstrate Kazakhstan's commitment to effectively implement

Conventions Nos 81 and 129. We acknowledge the ongoing collaboration with the ILO to ensure that legislative reforms align with international standards and the openness to address concerns raised by supervisory bodies. We encourage this continued partnership to further address the Committee's recommendations. We believe that continuous and constructive dialogue with all stakeholders, including employers and trade union representatives, is crucial for further improving working conditions.

Chairperson – I give the floor to Mr Jeremy Yarbrough, the representative of the United States of America.

Government member, United States of America (Mr YARBROUGH) –We thank the Government of Kazakhstan for providing additional information to this Committee in response to the recent observations of the Committee of Experts.

We welcome that the moratorium on labour inspections at small and medium enterprises was allowed to expire on 1 January 2024. We note with concern, however, that restrictions on unannounced worksite inspections remain in place. These restrictions may leave violations and abuses of workers' rights undetected.

We note in particular that the Entrepreneur Code limits inspectors' ability to undertake inspections without prior notice; to conduct self-initiated inspections; and to undertake labour inspections as often and as thoroughly as is necessary. Unannounced inspections are crucial to ensure employers cannot conceal labour rights abuses, change usual working conditions, prevent a witness from being present, or make it impossible to carry out an inspection. Limitations on self-initiated inspections and on the frequency of inspections undermine an effective risk-based inspection framework by preventing inspectors from effectively targeting enforcement efforts or monitoring the compliance of recidivist employers. While Kazakhstan's Administrative Offenses Code provides for the assessment of monetary penalties for

enterprises that impede the work of inspectors, as of January 2023, the statutory maximum of these penalties was insufficiently dissuasive.

The stakes of labour law compliance can be life and death, as seen in the tragic loss of 46 workers' lives at a mining company on 28 October 2023. In the 30 years prior to this tragedy, at least 180 workers lost their lives in the same company's facilities in Kazakhstan, despite complaints from workers to the Labour Inspectorate that went unresolved. Government restrictions on labour inspections impeded inspectors' ability to properly ascertain and address dangerous conditions, prevented a follow-up inspection for at least one year, and imposed nominal penalties for labour rights abuses that failed to result in meaningful corrective action. We also note that restrictions on freedom of association in Kazakhstan have limited workers' ability to effectively address severe safety concerns in their workplace, especially in the mining and extractive sectors.

We urge the Government to take measures to ensure that penalties for labour rights abuses are sufficiently dissuasive and that enable labour inspectors to undertake labour inspections as often and as thoroughly as necessary.

We note with interest the Government's draft law that, among other things, empowers State labour inspectors to conduct inspections at dangerous production facilities without prior notice. We hope this change, if and when passed, will help effectuate inspections in practice.

We join the Committee of Experts in urging the Government to bring its laws into alignment with Conventions Nos 81 and 129.

The United States remains committed to engaging with the Government to advance worker rights in Kazakhstan

Chairperson – I give the floor to Ms Linnea Wikstrom, the representative of Building and Woodworkers International.

Worker member, Building and Wood Workers' International (BWI) (Ms WIKSTROM) –

On behalf of Building and Wood Workers' International, I am making this intervention regarding the application of Convention No. 81 and Convention No. 126 by the Government of Kazakhstan.

As representatives of workers in the construction industry, one of the most hazardous sectors, we are deeply troubled by the constraints imposed on the labour inspectorate through the Entrepreneur Code as amended in 2022. These limitations directly impact the safety and well-being of our workers.

Kazakhstan witnesses over 2,600 workplace accidents annually, with more than 240 resulting in fatalities. Among the various sectors of the economy, after the mining sector, the construction industry has the highest number of casualties, representing 10 per cent of these fatalities. A robust Labour Inspectorate is not just a necessity, but a life-saving mission for workers. It is, therefore, imperative that Kazakhstan's national legislation aligns with the provisions of the Conventions we discuss here today.

The role of labour inspections in monitoring and improving the application of occupational health and safety regulations, among other things, is not just important, it is instrumental in addressing the high level of fatalities and acting as a preventive function. Unfortunately, as the report by the Committee of Experts presents, the labour inspections do not have the liberty or the capacity to fulfil these functions in Kazakhstan today.

Most concerning for us are the limitations set on the labour inspectors' ability to act in conformance with national health and safety laws. It is instrumental for labour inspectors to take immediate action on findings, ensuring that they, rather than only acting as an instrument to help complainants prepare statements of claims to the court, instead are empowered to

take measures with immediate executory force and initiate legal proceedings without previous warning.

Finally, we are seriously concerned about the reports of cases where employers deny inspectors access to workplaces and the local governments' interference in labour inspectors' reports. Hence, we want to emphasise the importance of the Government taking the necessary measures, including protections, to ensure that labour inspectors do not encounter undue obstruction while performing their duties.

In conclusion, we reiterate the Committee of Experts' recommendation for the Government to urgently initiate reforms, to support the inherent functioning of labour inspection systems and to protect workers' fundamental right to a safe and healthy working environment.

Chairperson – I can see no more requests for the floor so I invite now the Government representative of Kazakhstan, Mr Akmadi Sarbassov, Vice-Minister, to take the floor for his final remarks.

Interpretation from Russian: **Government representative (Mr SARBASSOV)** – First of all, allow me to express my gratitude to our social partners and to all of those who offered forth recommendations aimed at bolstering the Labour Inspectorate system in the Republic of Kazakhstan, as well as enhancing the role of our social partners in that endeavour.

I will take all of these remarks in no particular order at the current time. We have heard from our social partners and certain countries that Kazakhstan is a country that has faced shortcomings. I think people are well informed about this, but that said, and in view of the tragedies that took place in some workplaces last year, there have been checks carried out and the necessary response has been taken by the Government. I should underscore therefore that the general trend in terms of workplace accident and injury is positive. The relative

decisions have been taken, and the Government has adopted and implemented a concept for workplace safety up to 2030, and on which we will now work on in more detail with our social partners.

With regards to specific recommendations, in addition to what I said in my opening statement, we have in place a unified labour inspectorate system in Kazakhstan. We have heard that the inspectorate is limited in its remit. However, the Labour Inspectorate has a full mandate to uncover violations and to ensure accountability of employers who are not doing what they should be. If such violation is found, a warning may be issued. This is a state document in event of a violation. If that warning is not heeded, the employer may be subject to administrative responsibility and a fine may be issued. When it comes to administrative responsibility, we have essentially two avenues. The first is a warning. This is for a first violation but is also part of the system of administrative responsibility. The second is a fine. These are administrative fines, applied by the Labour Inspectorate when it comes to administrative responsibility.

We are currently undertaking an analysis of the application of our legislation. The sanctions that currently exist in our regulations do not always necessarily have a preventive effect among employers who are not respecting the law, but we are actively working with specialized committees and legal commissions in this regard, in order to update our legislation. We hope to strengthen administrative sanctions, make them more severe and ensure that those found responsible for administrative offences can be issued a warning first and then a sensible fine. State officials who may be influenced may also be subject to administrative responsibility. Article 4 of the Administrative Code covers occupational safety and health, and we intend to broaden its scope, with further sanctions for such administrative offences, such as failure to comply with measures to protect the life and health of workers. All of these proposals are currently being considered by specialist commissions within the

Ministry of Justice, and we hope that the relevant decisions will soon be agreed upon and the relevant actions taken by the Government. With regard to the limited remit of the State Labour Inspectorate, there are certain limitations that do need to be observed in view of the legislation, but hindrance of the work of inspectors has been reported. There were around 50 cases reported last year, and when they were uncovered, relevant administrative actions were taken. 17 similar cases have been uncovered so far this year and all relevant administrative actions have been taken. I once again underscore that a review of the national occupational safety and health standards is taking place with social partners, which will be published and will cover the work of the state inspectors, as a result of the work of the relevant tripartite committee. We will, of course, be delighted to convey the outcomes of the work of this tripartite committee to the ILO, with this reporting continuing on an ongoing basis, as per our obligations under Conventions Nos 81 and 129.

Overall, we intend to further systematize our work. This began in December last year with the inclusion of key definitions. This includes our national Labour Inspectorate, with proper monitoring of its work and of the operation of certain branches of the industry, which have not always been fully covered by labour inspections, including agriculture. In terms of action to be taken in the coming years, we intend to introduce a new labour protection model with an integrated assessment of labour conditions in specific workplaces. This is something we have already started to do in relation to, with regard to certain specific enterprises, in order to compile a full set of information on the risks associated with those workplaces.

Furthermore, all enterprises that have been subject to assessment in terms of working conditions will receive accreditation from the relevant inspection and [not clear] facilities. This is something that we intend to work on together with our social partners. We also want to develop a systematic approach to collective and personal protection of workers, to be worked on with our specialist labour protection institutions.

These measures are part of our work to digitally map our workplace landscape and assess the risks that may exist in specific workplaces and with regards to specific workers in each of our country's enterprises.

In addition, we intend to make more economically viable for employers to increase the level of labour protection with various changes to be made in terms of accident insurance. We will fully redesign our training system for labour inspectors under the aegis of the Ministry, including technical labour protection inspectors, with the establishment of a single training centre responsible for umbrella coordination and skills development and training for the inspection services.

We are currently working with the National Office of Statistics to review our statistics gathering and reporting system. The remaining challenge is gathering reliable statistics in terms of internal controls undertaken by employers, trade unions and the national Labour Inspectorate.

Over the next two years, we plan to take into account a comprehensive range of information that will enable us to improve the situation in terms of occupational safety and health for workers, while improving financial conditions for employers and strengthening working conditions and entrepreneurship, for the purposes of the social and economic development of our country. I wish to assure you once again that Kazakhstan will make every effort to ensure that it is operating in line with ILO Conventions Nos 81 and 129.

Chairperson – I give the floor to Mr Paul Noll, Employer spokesperson for his final remarks.

Employer members – The Employers' group would like to thank the Government of Kazakhstan and the various speakers who took the floor for their interventions and information provided of which we fully have taken note.

We reiterate the importance of governance Conventions Nos 81 and 129. We welcome signs of the Government's willingness and expressed commitment to improve the situation concerning the application of Conventions Nos 81 and 129.

We recommend that national authorities effectively consult the representative employers' and workers' organizations in the further process. Specifically, we recommend that following:

- First, the Government should provide further detailed information on restrictions and limitations to the powers of labour inspectors;
- Second, the Government should take the necessary initiatives to bring the laws in conformity with Article 12, paragraph 1, of Convention No. 81 and to take measures so that labour inspectors do not encounter undue obstruction while performing their duties;
- Third, it should provide detailed information on the number of cases in which inspectors are denied access to workplaces and the grounds of such denial;
- Fourth, the Government should submit an annual report to the ILO in accordance with the time limits of the Conventions Nos 81 and 129;
- And finally, it should provide information to the Committee of Experts before its next meeting on the issues discussed and measures taken.

Chairperson – I give the floor to Mr Tjalling Postma, Worker spokesperson to make his final statement.

Worker members – We would like to thank the Government for the written and oral information it provided, and the participants for their contributions.

As we have already had occasion to say in our introductory remarks, labour inspection plays a fundamental role in the practical realization of decent working conditions for workers, including for the realization of their right to freedom of association and to a safe and healthy

working environment. It is therefore essential to provide inspection services with all the resources they need to function optimally and ensure the protection of workers.

To function optimally, labour inspection services obviously need human and material resources, but they also need a legal framework that enables them to carry out their functions in the best possible conditions. It is of outmost importance that the Government of Kazakhstan engages in social dialogue with the social partners in order to improve the functioning of the labour inspectorate.

We highlighted the insufficient number of labour inspectors in Kazakhstan and urge the Government to recruit a sufficient number of labour inspectors and to provide them with sufficient material, financial and operational resources, such as training and skills development, taking into account the specific needs of the country, in order to ensure the proper functioning of the labour inspectorate.

We also took note of the audit of the activities of the labour inspection of Kazakhstan conducted by the Committee of Experts in 2018 and would recommend to strengthen the role of labour inspection by transferring them to the subordination of the central executive body, which will be provided with sufficient resources, including human resources, and to provide information to the Committee of Experts on the measures taken in this regard. We welcome the information provided about the draft bill to address some of the issues in focus, that would also re-centralize and reintegrate labour inspection to the Ministry of Labour and Social Protection of Population. We expect this will be followed by necessary practical steps in close cooperation with social partners.

During the discussion, we noted that the legal framework applicable to labour inspection services in Kazakhstan is far too restrictive, depriving labour inspectors of the powers they

need to fully carry out their duties. The Government of Kazakhstan should lift these restrictions as soon as possible.

We therefore recommend that the Government of Kazakhstan repeal all legal provisions permitting the introduction of a moratorium on labour inspections by Presidential Decree and take no steps in the future to reinstate a moratorium on inspection services.

The Government will ensure that labour inspectors can carry out labour inspections as often and as carefully as is necessary to ensure the effective application of legal provisions, in accordance with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. To this end, the Government shall:

- Take the necessary legislative measures to give labour inspectors the power to visit workplaces without prior warning, and to carry out any examinations, tests or investigations they deem necessary;
- Indicate whether inspectors are now empowered to carry out inspection visits at any time of the day or night, following the repeal of section 197 of the Labour Code and section 147(2) of the Entrepreneur Code;
- Take the necessary steps to revise section 141 of the Entrepreneur Code, which provides for the frequency and types of inspections that are permitted depending on the degree of risk determined by the risk assessment and management system, so that labour inspectors can carry out labour inspections as often and as thoroughly as necessary to ensure the effective enforcement of the relevant legal provisions;
- Take the necessary steps to ensure that risk-assessment criteria do not restrict the powers of labour inspectors or the performance of labour inspections;

- Revise sections 151 and 156 of the Entrepreneur Code and article 50(12) of the Civil Service Act to ensure that investigations carried out by labour inspectors are not limited in scope or invalidated, and that no penalties are imposed on labour inspectors who exercise more extensive control than is permitted by law;
- Take the necessary steps, including the revision of legislation, to ensure that labour inspectors are empowered to take immediately enforceable measures and are able to initiate legal proceedings without prior warning;
- Take the necessary measures to ensure that no acts of undue obstruction are committed against labour inspectors in the performance of their duties, including the repeal of section 12 of the Entrepreneur Code, which still provides for the right of employers to refuse inspection by officials of state supervisory and control bodies;
- Take the necessary steps to draw up and publish an annual report on the activities of the inspection services and forward it to the ILO.

The Government will ensure that it provides all the information requested by the Committee of Experts in its observation and that it also provides all the information on the measures taken to implement the recommendations to be made by our Committee by 1 September 2024.

We also recommend that the Government of Kazakhstan accept the visit of a technical advisory mission before the next session of the International Labour Conference.

Chairperson – We have now concluded the discussion of this case. The conclusions will be adopted tomorrow, Thursday, 13 June in the morning.

Before starting the discussion on the next case which is Mexico, I announce a three minute technical break.

The sitting closed at 11.50 a.m.

La séance est levée à 11 h 50.

Se levantó la sesión a las 11.50 horas.

