

Labour Inspection Country Profile: Viet Nam

Labour Inspection Structure and Organization

Name of institution that manages work issues

[The Ministry of Labour, Invalids and Social Affairs \(MOLISA\)](http://english.molisa.gov.vn/) is responsible for employment and labour matters. (<http://english.molisa.gov.vn/>.)

Department(s) responsible for Labour Inspection

The MOLISA Inspectorate is the central authority of the labour inspection system in the country. It has six functional divisions: Labour Policy Inspections, OSH Inspections, Child and Social Affairs Policy Inspection, Inspections of "Policy for Meritorious People", General Services and Administrative Inspections, Citizen Reception and Complaint and Denunciation Handling.

In some Industrial Processing Zones (IPZs) the provincial Departments of Labour, Invalids and Social Affairs (DOLISAs) have authorised IPZ authorities to assume the responsibility for state administration in some areas related to labour, including labour inspection.

Law that covers organization and functional composition

Labour Code, 2012

Law on Inspection (No: 56/2010/QH12)

Scope of labour inspection

Labour inspectors are responsible for overseeing implementation with general working conditions and occupational safety and health legislation, as well as payments of social security dues and investigating occupational accidents. Inspectors are also responsible for ensuring compliance with the law with regard to the establishment of trade unions in enterprises, the negotiation and application of collective bargaining agreements and the settlement of labour disputes.

Under their responsibilities, labour inspectors not only ensure enforcement of law, but also provide information and technical advice to employers and workers, and bring to the attention of the competent authorities any abuses that are not specifically covered by the existing legal provisions. In some cases, they have other responsibilities including investigating complaints and adjudicating disputes between workers and employers.

Local divisions

There are 63 DOLISAs at the provincial level. These DOLISA offices further support and monitor 697 district divisions.

Programming and communication

The planning and programming between MOLISA and the DOLISAs is clear, structured and participative. The MOLISA and DOLISAs develop annual inspection plans based on the numbers of employers in each province, recorded complaints and denunciations, as well as based on the results of enterprise self-assessments from the previous year. Every year, the MOLISA Inspectorate develops inspection plans to select prioritized industrial and public sectors to then carry out local coordination. In addition, the MOLISA Inspectorate assigns inspectors in charge of districts to collaborate with the DOLISA Inspectorates. DOLISAs also submit reports on a quarterly and annual basis to MOLISA. On occasion, the MOLISA and DOLISAs carry out joint inspection visits.

In cases of inspections in IPZs, each IPZ board has its own development plan. When this plan overlaps with DOLISA labour inspections, the IPZ board discusses it with the DOLISA. There is, however, no legal basis for coordination between the IPZs and MOLISA/DOLISAs.

Current reforms

In 2012, MOLISA began a process of reforms to the State labour inspectorate in a so-called Master Plan, to be submitted as a proposal to the Prime Minister in 2013 for the strengthening of the labour inspection system until 2020. The Master Plan covers a number of elements including strengthening the organizational structure of the inspectorate, finalizing its management information system, reforming inspection methodologies, forms and operations; investing in equipment for labour inspectors; and finalizing the training strategy for inspectors.

Human Resources and career development

Permanency of inspectors

Labour inspectors are appointed as civil servants and are guaranteed stability of employment. Labour inspector salaries are approximately 30 per cent higher than other civil servants of the same rank and position.

Selection process

The recruitment process for all inspectors is managed by the Ministry of Home Affairs following official public guidelines.

All new applicants must first go through a competition process and pass an entrance exam. Upon successful completion of the entrance exam, the candidate can be confirmed as a civil servant after one year. During the first three years, new recruits must pass a series of specialized training courses and exams before being appointed as a labour inspector.

Inspectors may be selected from officers already employed by other government agencies.

Background required

All newly recruited inspectors must have at least an undergraduate degree in law, economics or a technical area pertinent to OSH (e.g. mining, manufacturing, construction, agriculture etc.).

A Government Inspector Training School was established in 1987 in Hanoi to provide training for inspectors from all provinces and ministries. Its courses range from one week to 2 months. It provides training on legislation, with some coverage of labour inspection and social protection, but provides no training on technical areas (e.g. working conditions or OSH). MOLISA and the DOLISAs carry out their own professional development activities for inspectors. Once a year, an entire week is set aside for inspection managers to become acquainted with new laws, policies and other developments related to their work. This training takes place in conformity with the legal obligation that all civil servants receive at least one week of annual training.

Visits and functions

Types of visits

The Inspectorate carries out specialized inspections, which are divided into the following areas: working conditions and employment relations, OSH, child affairs and social policies, war veterans, vocational training and compulsory social insurance, unemployment insurance, voluntary social insurance, and the placement of Vietnamese workers overseas. There is a greater emphasis on enforcement measures as well as responding on a case-by-case basis to complaints and denunciations.

Visits are based on annual inspection work plans and/or denunciations received from workers. In both cases, labour inspectors alert employers at least three days in advance of an upcoming visit and send an inspection outline of the proposed matters to be addressed during the visit. Visits usually are carried out within one workday in teams of 2-3 inspectors.

In Viet Nam, a self-assessment report has been introduced requiring employers to reply to a questionnaire and send it to the relevant Labour Inspectorate after it has been signed by a trade union representative (where a trade union exists). Employers are required by law to return completed forms to the MOLISA/DOLISAs. If employers do not return self-assessment forms, they are included in the annual inspection plan for follow up visits. Labour inspectors may help the employer complete the form and the inspector can ask the employer to take action in cases of detected labour law violations. In addition, reports that suggest serious infractions become priorities for inspections in the following year.

Role of preventive measures

Although the Labour Code provides for an advisory function within the labour inspection system, a culture of prevention among labour inspectors is not well-developed. There is a greater emphasis on enforcement measures as well as responding on a case-by-case basis to complaints and denunciations.

Since 1999, MOLISA organizes an annual National Week of Occupational Safety and Health in one province and on one theme, such as: OSH in agriculture and craft villages, explosions and fire prevention, etc. The local authorities and enterprises also organize training courses in which labour inspectors are invited to give lectures on related policies and regulations.

Planning of labour inspection visits

Visits are organised based on annual plans that are largely based on the numbers of enterprises in key industries in each province rather than based on aggregate data about the number and/or kinds of violations in these industries.

Registries and reporting of accidents/diseases at work

Employers are legally obliged to notify and report data on occupational accidents, diseases and health status of workers to the labour inspectorate. In practice, only serious injuries and illnesses are reported and there appears to be a high level of underreported accidents.

MOLISA/DOLISAs manually collect information related to the numbers of complaints, enterprises and employees in each province. They also gather information on the total fines and penalties assessed against employers for violations of the Labour Code.

Sanction and administrative processes

Labour inspectors are empowered by law to enforce labour legislation through the use of sanctions. Different measures are foreseen in cases of labour law violation: advice, verbal and written warnings, fines, work stoppages, withdrawal of operating licenses or registrations, closure of the enterprise and even mandatory

training. When employers are dissatisfied with the decision taken by labour inspectors they are granted the right to appeal. Inspectors can take immediate measures where they have reason to believe that there is an imminent and serious danger to the health or safety of workers, including temporarily suspending operations. In practice, labour inspectors never apply a sanction on the first visit, unless the violation is of a serious nature.

Social dialogue and labour inspection

The Labour Inspectorate has good coordination with the social partners, especially in carrying out joint inspection visits with the Vietnam General Confederation of Labour as the law provides that trade unions shall also monitor the implementation of the provisions of labour laws. Although the worker representatives are present during the inspection visits and they assist in identifying infractions, the capacity and decision to sanction remains an exclusive prerogative of the labour inspector.

Beyond joint visits with the DOLISAs, the Viet Nam Chamber of Commerce and Industry has close collaboration in the organization of workshops, training courses and projects.

ILO Conventions ratified

Convention No. 81 was ratified in 1994, but Convention No. 129 has not yet been ratified.