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Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



Project is funded by European Union

Labour inspection

Online training series
International and EU Labour Standards

António J. Robalo Santos

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► Labour inspection

- Public function of labour administration that ensures the application of labour and OSH legislation at workplaces
- Main role: convince social partners of the need and their mutual interest in observing labour and OSH legislation
- Means:
 - Preventive measures
 - Educational measures
 - Enforcement measures

Advantages of an effective labour inspection system



► Main International Labour Standards on labour inspection

- Labour Inspection Convention, 1947 (No. 81) – ratified by Ukraine in 10/11/2004
- Labour Inspection (Agriculture) Convention, 1969 (No. 129) – ratified by Ukraine 10/11/2004
- Protocol of 1995 to the Labour Inspection Convention, 1947 – not yet ratified by Ukraine
- Labour Inspection Recommendation, 1923 (No. 20)
- Labour Inspection Recommendation, 1947 (No. 81)
- Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)

► Main concerns regarding labour inspection in Ukraine

Ukrainian labour inspectors cannot:

- Perform inspection visits by initiative of labour inspectors, without the prior issuance of the respective order, emission of the correspondent certificate and register of the inspection visit on the information system
- Widen the inspection visit scope beyond the authorization included in such documents, or duration of the inspection visit, even when the facts seen at the workplace justify it
- Perform inspection visits at any time of the day or night to any workplace without prior notice
- Perform inspection visits when the employer or his representative is not present
- Make inspection visits with the duration, frequency and depth which they understand as necessary
- Impose sanctions regarding observed infractions, if the employer, once notified, corrects the infringements
- Promote and enforce compliance of unregistered employers (which usually show higher non-compliance)
- Suspend works, even in the event of imminent danger to the health, safety, or life of workers

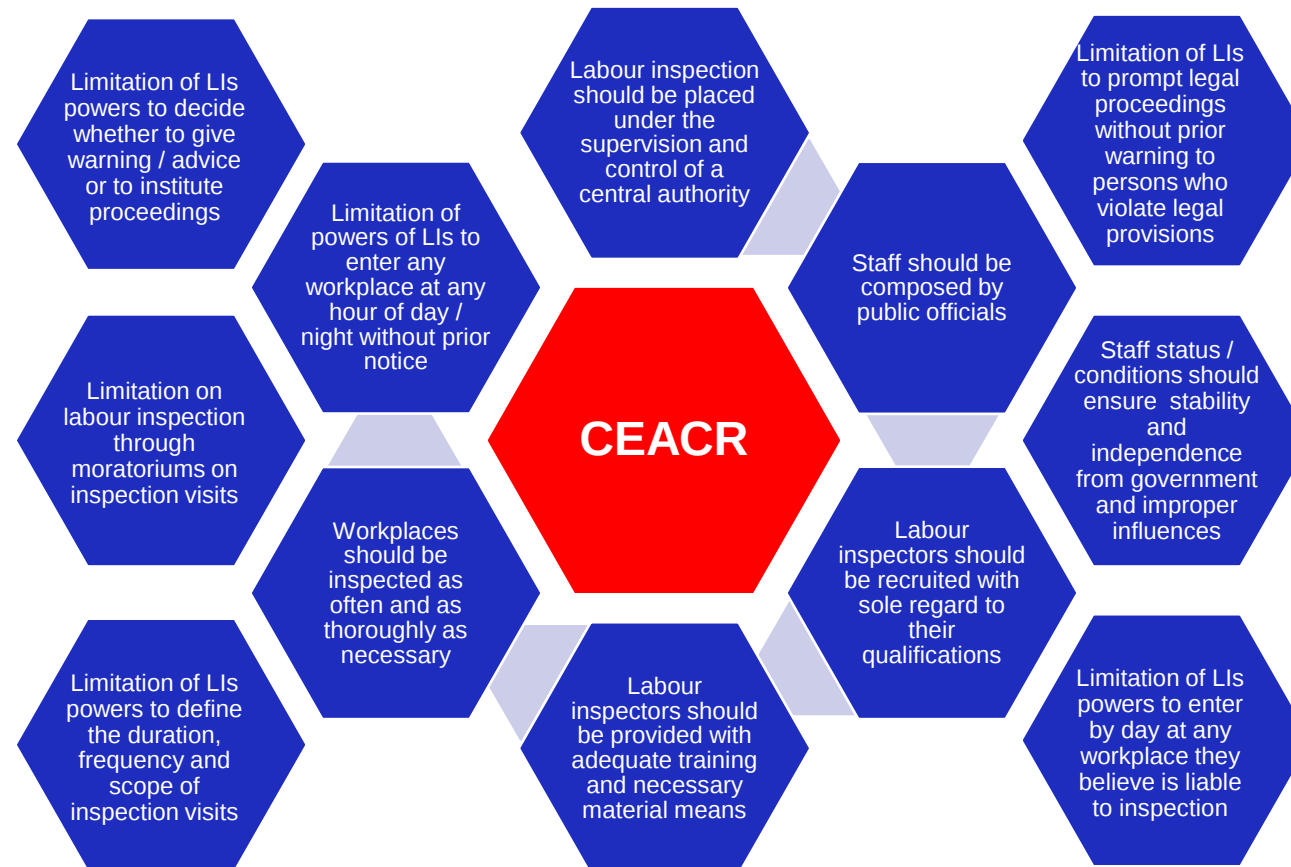
► Main concerns regarding labour inspection in Ukraine

Other concerns:

- Very wide mandate of the State Labour Service of Ukraine, which compromise the discharge of labour inspection primary duties and prejudice the authority and impartiality of labour inspectors
- Recurrent imposition of moratoria on inspection visits
- Inception and continuous training of labour inspectors
- Working conditions and means of labour inspectors to perform their duties
- Ongoing process of decentralization (delegation of LI functions to local self-government bodies):
 - Local self-government bodies are not under the control and supervision of a central authority
 - Local self-government bodies' labour inspectors do not have the status civil servants
 - Qualifications, selection, recruitment, training and working conditions of self-government bodies' labour inspectors

► Main concerns regarding labour inspection in Ukraine

Observation (CEACR), concerning the application of Conventions 81 and 129 in Ukraine (adopted 2019)



► Implications for policy decision-makers and legal acts' drafting experts

Primary duties of labour inspection:

- Enforce legal provisions relating to conditions of work and the protection of workers while engaged in their work (e.g., hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters)
- Provide technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions
- Bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions

► Implications for policy decision-makers and legal acts' drafting experts

Scope of labour inspection:

- Industrial workplaces
- Commercial workplaces
- Agricultural undertaking
- Activities in the non-commercial services sector

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspection organization, staff and operations:

- Placed under the supervision and control of a central authority
- Have a sufficient no. of labour inspectors to effectively discharge its duties considering:
 - Importance of duties which inspectors have to perform (number, nature, size and situation of the workplaces liable to inspection; number and classes of workers employed; and number and complexity of the legal provisions to be enforced)
 - Material means placed at the disposal of the inspectors and
 - Practical conditions under which visits of inspection must be carried out in order to be effective

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspection organization, staff and operations:

- Inspect the workplaces as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions
- Be notified of work-related accidents and cases of occupational disease
- On the occasion of an inspection visit, inspectors notify the employer (or his representative) and workers' representatives of their presence, unless they consider that such notification may be prejudicial to the performance of their duties
- Inspection work should involve duly qualified technical experts and specialists (e.g. in medicine, engineering, electricity and chemistry), to enforce legal provisions on OSH and to investigate the effects of processes, materials and methods of work on workers' safety and health

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspection organization, staff and operations:

- Cooperate with other Government services and public or private institutions engaged in similar activities;
- Ensure collaboration between its officials and with employers, workers and their organisations
- Composed by public officials, whose status and conditions of service ensure stability of employment and independence regarding changes of government and improper external influences
- Integrates both men and women

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspectors' recruitment requirements and working conditions:

- Recruited with sole regard to their qualifications for the performance of their duties
- Be adequately trained (inception and continuous training)
- Provided with local offices, suitably equipped and accessible to all persons concerned
- Provided with the transport facilities necessary for the performance of their duties
- Reimbursement of any travelling and incidental expenses necessary to perform their duties

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspectors' powers:

- To enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
- To enter by day any premises which they may believe to be liable to inspection
- To carry out any examination, test or enquiry considered necessary, in particular:
 - 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
 - Require any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, and to copy such documents or make extracts from them
 - Enforce the posting of notices required by the legal provisions
 - Take or remove for purposes of analysis samples of materials and substances used or handled (subject to employer or his representative notification)

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspectors' powers:

- To take steps with a view to remedying defects observed at workplaces, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers
- Subject to any right of appeal to a judicial or administrative authority (which may be provided by law), to make or to have made orders requiring:
 - Such alterations to the workplaces, to be carried out within a specified time limit, as necessary to secure compliance with the legal provisions on the health or safety of the workers or
 - Measures with immediate executory force in the event of imminent danger to the health or safety of the workers

► Implications for policy decision-makers and legal acts' drafting experts

Labour inspectors' obligations:

- **Integrity, Independence and Impartiality** – labour inspectors should be prohibited from having any direct or indirect interest in the undertakings under their supervision
- **Professional secrecy** – labour inspectors may not reveal, even after leaving the service, any manufacturing or commercial secrets or working processes, which came to their knowledge in the course of their duties
- **Confidentiality regarding the source of complaint** – labour inspectors have to treat as absolutely confidential the source of any complaint, and shall give no intimation to the employer or his representative that an inspection visit was made in consequence of the receipt of such a complaint
- **Professionalism and competency** – labour inspectors are expected to perform their duties with the highest standards of professionalism, which requires a very good selection and recruitment processes, on the basis of the quality of their qualifications (on entry) for the performance of their duties, complemented with adequate initial and continuous training

► Implications for policy decision-makers and legal acts' drafting experts

Advice and enforcement activities:

- It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings
- Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning
- 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

► Implications for policy decision-makers and legal acts' drafting experts

Reporting responsibilities:

- Labour inspectors / local inspection offices should submit to the central inspection authority reports on their inspection activities
- The central inspection authority should publish an annual general report on the work and relevant subject matters of the inspection services under its control, including on:
 - Laws and regulations relevant to the work of the inspection service
 - Staff of the labour inspection service and
 - Relevant statistics (e.g., of workplaces liable to inspection and the no. of workers employed therein; no. of inspection visits; no. of violations and penalties imposed; no. of work-related accidents and their causes; and no. of occupational diseases and their causes)



Mykola

labour inspector of the State Labour Service for more than 10 years



Last Saturday, he was walking and, around 10:00 am, he noticed that in a construction site nearby there was a scaffold with 10 meters which:

- was not properly fixed and stabilized
- was not provided with collective protection against falling from heights
- 5 workers were working on it, exposed to the immediate and serious risk for their life, safety and health, of falling from heights



He decided to intervene in order to prevent workers from falling from the scaffold and die

Good morning!
I'm a labour inspector.
Here is my ID.
The works involving the use of the scaffold should be immediately stopped because the workers are at risk of falling from height and die!



Mykola

You are not authorized to enter the worksite because:

- I was not notified in advance of this inspection visit
- You did not present me the documentation regarding the realization of such inspection visit, with the identification of the respective scope and grounds
- You do not have the powers to stop any works, even in the event of imminent danger to the health or safety of workers



Employer



Mykola could not perform his inspection



On Monday in his office, he received instructions to investigate a fatal work-related accident happened on Saturday, around 15:00, in the worksite where he went to. One worker fell down from a scaffold and died...



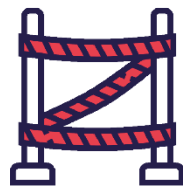
Tamara

labour inspector of the State Labour Service for over 15 years



Received a trade union complaint regarding the lack of safety of a particular work equipment in a winery

Following the procedure, she obtained the necessary authorizations, registered the inspection visit in the system (date, scope, etc.), printed the necessary documentation and notified the employer of the visit



During the inspection visit, she noted that in another section of the winery (in a silo, a confined space used to store the wine) reparation works were being carried out without appropriate equipment for potential explosive atmospheres

Have you assessed the risks of these reparation works?
What measures did you implement to prevent them?



Tamara

This area is out of the scope of your inspection visit



Employer



When she resumed the inspection of the work equipment as foreseen in the pre-defined scope of the inspection visit, a huge explosion was heard...

Resources on the EU-ILO Project site

ilo.org/shd4Ukraine

Background paper

Infographics

And more...



- Power Point Presentation
- Labour Inspection Convention, 1947 (No. 81)
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Q&A



Contacts

Дякую за увагу!

Thank you for your attention!





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