

Information supplied by governments on the application of ratified Conventions

Ukraine

Conventions Nos 81 and 129

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Labour Inspection Convention, 1947 (No. 81) and Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Ukraine (ratification: 2004). The Government has provided the following written information.

Since 1 January 2017, the Act concerning the fundamental principles of state supervision and monitoring of economic activity has been focusing on state supervision and monitoring of labour and employment legislation. The Act provides for state supervision and monitoring in accordance with the procedures in the Act and taking into account the features of legislation in other sectors and relevant international treaties, notably those relating to state supervision (monitoring) of civil aviation

Changes introduced to section 34 of the Local Government Act delegate the exercise of state monitoring, including the power to impose fines for violations of the labour and employment legislation, to the local government authorities. Local labour inspectors will also be entitled to establish infringement reports on administrative offences and impose fines for breaches of labour and employment legislation. Cabinet of Ministers Decision No. 295 of 26 April 2017 on the application of section 259 of the Labour Code and of section 34 of the Local Government Act approved the procedure for state monitoring of labour legislation (hereinafter monitoring procedure) and the procedure for state supervision of labour legislation (hereinafter supervision procedure). Once Decision No. 295 will enter into force, the state supervision of labour legislation will be conducted by the National Labour Inspectorate (hereinafter Gostruda) including its regional branches, and by the local authorities (the executive bodies of councils in regional urban centres and in integrated rural and semi-rural territorial communities).

The Decision establishes a new approach to relations between the State and businesses, according to which the main priorities of inspection are prevention and the provision of advice to employers. The monitoring procedure enables employers to request regular information and awareness campaigns by state inspectors concerning the most effective ways to comply with labour regulations, thereby avoiding or remedying violations of labour and employment rights. At the request of employers, so-called “audits” of labour and employment legislation may be undertaken, but the Decision also recommends that state action should be taken only if the employer refuses to address violations. At the same time,

the monitoring procedure establishes an effective mechanism for detecting undocumented workers, as the next step in the Government's battle against money laundering by individual citizens and unscrupulous enterprises.

The drafting of the Decision took into account the opinions of ILO experts regarding conformity with the requirements of the Conventions, and regulations were prepared in close collaboration with the social partners.

Reply to direct request

Articles 4 and 5(a) of Convention No. 81 and Articles 7 and 12 of Convention No. 129 (Organization of the State Labour Service (SLS))

Structure of the Gostruda

Pursuant to the Regulations on Gostruda approved by Decision No. 96 of the Cabinet of Ministers of 11 February 2015, the main tasks of Gostruda are to:

- (1) implement the national policy on industrial and occupational safety and health and the handling of explosives; conduct state supervisions in the mining sector; and conduct supervision and monitoring of labour and employment legislation and compulsory insurance concerning the entitlements to benefits of insured persons;
- (2) provide integrated management of industrial and occupational safety and health at the national level;
- (3) ensure state regulation and monitoring of activities at highly hazardous facilities;
- (4) organize and enforce state supervision (monitoring) of operations in the natural gas market relating to the sound technical conditions of the system, assemblies and gas metering equipment and ensure the safe and reliable operations of the plant used by the national transmission system.

Gostruda performs a total of 55 functions in relation to the responsibilities assigned to it.

It has 3,636 staff members, of whom 158 work at its central office and 3,478 in its regional branches. About 80 per cent of staff are labour inspectors directly involved in conducting controls. Gostruda has 24 regional branches (including regions, districts, and towns). Its technical units, which are state enterprises under the authority of Gostruda, conduct expert assessments of working conditions and the operation of highly dangerous equipment, and provide other services to ensure occupational safety and the proper functioning of equipment.

The main research and guidance centre of Gostruda provides distance-learning material on occupational safety and health to staff and experts; the National Scientific Research Institute for Industrial and Occupational Safety and Health ensures scientific back-up for the national policy; and the magazines *Occupational safety and health* and *Technopolis*, publish articles on measures taken, including by Gostruda, to ensure appropriate levels of industrial and occupational safety and health.

Article 5(b) of Convention No. 81 and Article 13 of Convention No. 129 (Collaboration of the labour inspection services with employers and workers or their representatives)

On 22 June 2016, Gostruda and the Federation of Trade Unions of Ukraine signed a cooperation agreement to collaborate on joint information and awareness campaigns and monitoring measures.

In accordance with the existing legislation, the following bodies have been established within Gostruda:

- the social council, consisting of 26 members representing civil society institutions, is a provisional consultative and advisory body set up with the aim of promoting civil involvement in the formulation and implementation of state policy;
- a board of 17 members, representing workers' and employers' organizations at the national level as well as from the central Government, set up as a consultative and advisory body tasked with reaching consensual agreement on matters within the responsibility of Gostruda;
- expert working groups of variable size, established for the purpose of preparing new draft laws and regulations and introducing amendments to existing standards.

At the national level, the main labour administration body concerned with social dialogue is the National Tripartite Social and Economic Council, which was set up as a consultative and advisory body to enable participation of workers, employers and government representatives in formulating and implementing national economic and social policy and in regulating labour, economic and social relations.

Article 6 of Convention No. 81 and Article 8 of Convention No. 129 (Status and conditions of service of labour inspectors)

State labour inspectors are public employees governed by the terms and conditions in the Civil Service Act. Therefore, the working conditions and remuneration of state labour inspectors are in accordance with the State Budget Act, sections 50 to 53 of the Civil Service Act and the Cabinet of Ministers Decree No. 15 of 18 January 2017, on "matters concerning the remuneration of workers in governmental institutions".

Article 7 of Convention No. 81 and Article 9 of Convention No. 129 (Training of labour inspectors)

In the context of the 2016–19 Decent Work Country Programme for Ukraine, the ILO is implementing a project to strengthen labour inspection systems and social dialogue mechanisms. Currently, a systematic training programme for state labour inspectors is being prepared. By the end of 2017, it is envisaged to launch a pilot version of the programme, to be followed by a review and then full implementation in early 2018.

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129 (Material means and human resources to achieve an adequate coverage of workplaces by labour inspection)

As mentioned above, Gostruda has 3,636 employees, including 158 at its central and 3,478 at its regional level. About 80 per cent of its employees are labour inspectors directly involved in conducting controls. In 2017, the actual number of labour inspectors empowered to carry out controls of compliance with labour and employment legislation is 542, and the official number is 765. Gostruda and its regional branches hold regular competitions to fill

vacant posts, in accordance with the requirements of the Civil Service Act; they are announced in the relevant publications.

Article 14 of Convention No. 81 and Article 19 of Convention No. 129 (Notification of industrial accidents and cases of occupational diseases to the SLS)

Ukraine has committed itself, under the Ukraine–European Union Association Agreement, to improve its public health service and the safety of working conditions. This will involve a gradual adaptation to the legislation, standards and practices of the European Union (EU) Member States.

A modern approach to problem-solving in the sphere of occupational safety and health is required, owing to the poor performance of the existing system. Many countries worldwide now indicate that their principal mechanism for ensuring industrial and occupational safety at the national and regional, individual plant and workplace level, is a monitoring system geared towards the assessment and management of risks to the life and health of workers. The current national legislation on occupational safety and health does not require employers to introduce a risk-oriented approach to their occupational safety and health management.

The basic occupational safety and health laws and regulations are provided for in the Code of Labour Laws. Therefore, representatives of Gostruda have participated in a working group attached to the National Supreme Council (Rada) on matters of social policy, employment and pension, as part of the amendment process for the second reading of the draft Labour Code. This draft, in addition to introducing the requirements of the main EU Directive on safety and health (the “Framework Directive” 89/391/EEC), also proposes to implement a number of EU regulations. Once the new Labour Code is adopted, there will remain the considerable task of amending the other laws and regulations governing occupational safety and health.

Articles 20 and 21 of Convention No. 81 and Articles 26 and 27 of Convention No. 129 (Annual report on labour inspection)

Gostruda will prepare and submit an annual report on labour inspection, in accordance with the requirements of Article 20.