

Committee on the Application of Standards

Date: 23 May 2023

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 22 May 2023.

► Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Kyrgyzstan (ratification: 2000)

Labour Inspection Convention, 1947 (No. 81)

The Government has provided the following written information.

As you know, the Kyrgyz Republic has ratified the Convention, by an Act of the Kyrgyz Republic, which obliges ILO Member States to ensure a system of state monitoring of compliance with labour legislation, to conduct regular inspections at enterprises, to ensure the right of unimpeded access to any enterprise without prior notice to carry out inspections at any time of the day and to take measures to rectify the violations identified. The Convention also establishes requirements for the qualifications and competence of labour inspectors.

In relation to the moratorium on inspections of business entities in accordance with Presidential Decree of the Kyrgyz Republic No. 2380 of 21 November 2022 on the Introduction of a Temporary Ban (Moratorium) on Inspections of Business Entities until 31 December 2023, and Resolution of the Cabinet of Ministers of the Kyrgyz Republic No. 2725 of 30 December 2022 on the Introduction of a Temporary Ban (Moratorium) on Inspections of Business Entities, as well as the existing restrictions imposed by Act of the Kyrgyz Republic No. 272 of 25 May 2007 on the Procedure for Conducting Inspections of Business Entities, the Service for Oversight and Monitoring of Labour Legislation (hereinafter, "the Service") under the Ministry of Labour, Social Security and Migration (MLSSM) of the Kyrgyz Republic may not carry out full-scale inspections and audits of entities for existing violations of labour legislation.

During the visit of the ILO Country Office for Eastern Europe and Central Asia (hereinafter, "ILO Country Office") delegation from 24 to 27 April 2023 led by the ILO Country Office Director, it was recommended that Kyrgyzstan lift the following restrictions imposed on the Service:

- the Service's lack of authority to conduct inspection visits without prior notice;
- the need for the Service to request prior authorization from the Ministry of Economy and Commerce for inspection visits;

- limits on the frequency of labour inspections (these are carried out not more than once a year at workplaces classified as high risk, and not more than once every three years at workplaces with a medium risk of danger);
- limiting the scope of inspection visits;
- the lack of authority of the Service to impose immediately enforceable measures in cases of serious and immediate danger to the life, health or safety of workers, unless violations have been established;
- the threat to labour inspectors' independence and impartiality due to the risk of removal of inspectors from their posts should the courts fail to affirm the violation;
- limiting the Service's power to respond promptly when a violation is identified (it is obliged to issue a warning, and only if the employer fails to comply with the warning may a fine be imposed);
- the insufficient number of labour inspectors (28) given the mandate, the number and complexity of the legal provisions enforceable by labour inspectors, and also the means and conditions for carrying out their duties.

Following a consultative meeting with the ILO Country Office with the participation of the Chairman of the Cabinet of Ministers and the Head of the Presidential Administration of the Kyrgyz Republic, Akylbek Usenbekovich Zhaparov, the MLSSM requested that the Cabinet of Ministers consider lifting restrictions on the Service's inspections of employers, regardless of their form of ownership, to ensure compliance with labour legislation, and to increase the number of labour inspectors.

Meanwhile, the Chairman of the Cabinet of Ministers, A.U. Zhaparov, issued instructions to amend legislative and regulatory and legal acts limiting the full activities of the Service.

Thus, the MLSSM will work to amend the aforementioned regulatory legal acts to lift the moratorium on the Service for the inspection of economic entities, following which the draft documents will be sent for domestic approval.

The MLSSM has also made amendments to Act of the Kyrgyz Republic No. 272 of 25 May 2007 on the Procedure for Conducting Inspections of Business Entities, according to article 6(6) of which the authorized bodies shall carry out scheduled inspections provided that the subject of the inspection is notified in writing at least ten calendar days prior to the inspection, and under article 7, inspections may be unannounced and carried out without a written order (warrant, directive) in order to identify the causes and sources of unacceptable effects on public health, and to take measures to prevent and eliminate them, subsequently notifying the authorized body for enterprise development within seven working days that there was no point initiating an unannounced inspection in case of a threat to life and health.

The issue of notification has now been considered in its second reading in the Zhogorku Kengesh (Supreme Council or Parliament) of the Kyrgyz Republic, and the article has been supplemented with the words, "in case of the threat of an accident at work." That is, if these amendments are adopted, the Service will conduct scheduled inspections without prior notice, and also, in cases of the threat of an accident at work, the Service will have the right to conduct an unannounced inspection without the approval procedure involving the Ministry of Economy and Commerce.