

Project
Towards safe, healthy and declared work in Ukraine

Comments to the draft Law of Ukraine
“On Amending Some Legislative Acts on the Procedure of State Supervision
(Control) of compliance with labour legislation”

(the October 2021 version submitted to the Cabinet of Ministers of Ukraine for consideration)

1. It would be desirable to have **a separate law regulating the activities of Labour Inspection (SLS)** in line with ILS and good practices, as well as since there are provisions of Law 877 that are contradictory to ILO C81/C129 as per CEACR, recommended to **exclude activities of the SLS from the scale and scope of Law 877**. CEACR comments on Law 877 and Ministerial Decrees 295 and 823 available: (Observation [Comments \(ilo.org\)](#); Direct request [Comments \(ilo.org\)](#)).

2. Art. 261. re Power of Labour Inspectors to **“enter freely”**, at any hour of the day or night at any workplace without restrictions (para 1 and 2), and to have the **“free initiative of labour inspectors to undertake inspections without prior notice”** should be respected and integrated into the Ukrainian legislation. It should be additionally inserted to part 10. Art 261 **“with a view to remedy defects, demand alterations”** but also importantly **“to take measures with immediate executory force...in case of substantiated imminent and serious danger to the health and safety of workers, including stoppage, termination...”**

3. Art. 261 para.1/2, art. 262 para.7 part 2, art. 264 para. 4 part 2, and possibly para13.ibid/Art. 265 paras. 2, 3, 9 part 1 re **“provisions to impose restrictions and limitations to the duration, frequency, scope, and free initiative to undertake inspections”** should be amended, complemented or deleted to align it with Articles 12(1 a/b) and Art 16 of C81, and Art 16(1a/b), and Art. 21 of C129.

4. As for the **employers’ rights to appeal against decisions of labour inspection**, it is important to **ensure that, in cases concerning the notification of the employer to take safety and health preventive and protective measures within reasonable time limit and/or to immediate stop works** in order to secure safety and health of workers (recommended to add new para. 17 in Art. 261) it is worthwhile to note that the **“employers’ reservations, complaints, or recourses to the court, do not have the suspensive effect”**.

5. Re the **liability for the violations of the labour legislation and respective procedure** (Art. 268, art. 269) some key considerations: the amount of the fine to be adjusted to the size of the employer, correlate the financial gain of the employer with the infraction, consideration of non-monetary sanctions as well to dissuade non-compliance. Aggravating circumstances to be specified, including repeated violations and/or for impending/obstructing the work of the inspector.