

Albania labour inspection audit
Joint outcome on labour inspection

Dialogue
Safe work
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Contents

Foreword	v
I. Main economic, social and political elements.....	1
II. Legislative framework for the labor inspectorate.....	2
III. The labour inspection system in the MoLSA.....	3
IV. ILO Conventions ratified by Albania and major comments of the Committee of Experts.....	5
V. Industrial relations and Tripartite structures	5
VI. Labor inspection: main features and developments	7
General description.....	7
Human resources and career.....	11
Visit	14
Authorisation and registration:	17
Notification of workplace accidents and diseases	17
Statistical table relating to occupational accidents and diseases	19
Collaboration with other authorities.....	19
Sanctions and administrative procedures	21
Relation with social partners	23
Findings	25
General Comments	25
Labor inspection structure and organization	25
Human resources and career development.....	26
Visit and functions.....	27
Registries and accidents/diseases at work reporting	28
Sanctions and administrative process.....	28
Social dialogue and labour inspection and social partners.....	29
Recommendations	29
General recommendations.....	29
Structure and organization.....	29
Human resource and career development	30
Visits.....	30
Registries and work accident report	31
Sanctions and administrative procedures	31
Cooperation with other partners	32
Action Plan	33

ANNEX I.....	vii
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Foreword

This audit of the labour inspection system in Albania was carried out in March 2009 at the request of the Ministry of Labour, Social Affairs and Equal Opportunities, which has responsibility for labour inspection in the country. The purpose of the audit was to establish jointly with the government an action plan for improving, reinvigorating and modernizing the labour inspection system in Albania within the framework of the already-ratified labour inspection Conventions. Furthermore, the audit should be seen as an important step towards the achievement of the outcomes of the Decent Work Country Programme for Albania 2008-2010.

The audit was undertaken utilizing the ILO's participatory labour administration-related methodology, which includes interviews with the main governmental bodies concerned with labour inspection and the social partners. Visits to regional inspection services were also carried out and initial feedback was provided to the government.

This audit report contains a number of important recommendations for consideration by the Albanian government and, where appropriate, the social partners. These recommendations relate to such areas as the structure and organization of labour inspection services; human resources and career development of staff; organization of visits; registries and work accident reports; sanctions and administrative procedures; and cooperation with other partners. Other suggestions and recommendations may be considered in the context of the participatory approach adopted by the ILO.

This audit was carried out in the context of the inter-regional technical cooperation project on Enhancing Labour Inspection Effectiveness, financed by the Government of Norway. The valuable support provided by this project will enable the action plan to be implemented.

I would like to take this opportunity to thank the government and social partners in Albania for their very positive engagement in this endeavour and for their overall commitment to the achievement of the goals of the Decent Work Country Programme for Albania. I would also like to thank my colleagues, Ms Maria-Luz Vega and Ms Nadine Fischer of the Labour Administration and Inspection Programme, Ms Annie Rice of the Safework Programme, and Ms Cristina Mihes of SRO Budapest for their technical contribution, and Mr Alfred Topi, National Coordinator for Albania, for his guidance and support.

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I. Main economic, social and political elements

The Republic of Albania is located in the south-eastern part of Europe, bordering Kosovo, the Former Yugoslav Republic of Macedonia in the North, Montenegro in the South East and Greece to the South. It has a 362 km coastline and covers a surface of about 28.748 sq km. The capital is Tirana.

Albania was under communist regime until 1990. In 1991, the first free elections were held, and in 1998 the Albanian Constitution was adopted, laying the grounds for a parliamentary democracy.

Albania has been invited to join NATO in 2009, and it is a potential candidate country for EU accession, and a European partnership has been adopted with Albania in February 2008¹.

The population amounts up to 3,619 778, according to 2008 estimates. Average life expectancy is 77.8 years, 75.13 for men, and 80.71 for women. 95% of the population are Albanians, with the Greeks as the strongest minority, amounting to 3 percent of the entire population. There are also Serbians, Macedonians, Roma and Vlach, and Bulgarians, collectively making up the remaining 2 percent. Estimates suggest that Muslim is the most common religion in the country (70%), followed by Albanian Orthodox (20%) and Roman Catholic (10%)². The official language is Albanian.

Resident population has generally been on the decline in the last years, which is due to continuing emigration. Since 1990, almost 1.1 million Albanians have emigrated. However, population growth has been slightly back on the rise since 2001

The economy relies heavily on agriculture, which in 2008 accounted for an estimated 21 percent of the GDP. 58 % of the labour force is employed in agriculture. However, the agricultural sector is primarily limited to subsistence farming due to the prevalence of small plots of land and unclear property rights. As for the industry, it has dropped from 45% in the late 1980s, to 20% of the total GDP in 2008, which could be explained by the cease of support of certain industrial sectors by the previously existing communist regime. Textile and footwear are the main export products, which account for 43 % of total export revenue. Albania suffers from a trade deficit, which is partly levelled off by the remittances of emigrated Albanians residing in Greece and Italy, which account for some 15 % of the GDP.

After the 1997 crisis, there has been a resurgent increase in unemployment. Until 2002, the unemployment rate was up to 16%. Presently, according to the data at the end of February 2005, that rate is at 14.4%.

The informal economy in some sectors, particularly in construction, the garment sector, hotels and restaurants, continues to be very high. The informal sector creates

¹ Information taken from EIU country profile, on: ...and EU enlargement website on: <http://ec.europa.eu/enlargement/potential-candidate-countries/albania>.

² Data are taken from CIA world factbook, on: www.cia.gov.

problems, skewing results, and rendering employment and unemployment rate indicators unreliable.

From the surveys and annual controls carried out by the State Labour Inspection on formal enterprises, results showed that the percentage of workers in the informal economy decreased from 30% in 2000 to 18-20% during 2004. In the construction sector, this percentage is higher. If we add to this situation the activity of the informal enterprises not registered in the fiscal administration, the percentage would be even be higher. For example, from the controls done in the construction sector it results that from 2000-2004, the share of informal enterprises that carried out activities in the construction sector went from 7-15%. The same situation can be found in some service sectors such as bars and restaurants.

Unemployment has been declining in the recent years, due to job creation in the private non-agricultural sector. According to the 2008 estimates, it was around 12.5%. With regards to consumer price inflation, Albania has managed to maintain inflationary pressures on a lower level compared to other post communist countries, at between 2 and 3.5%.

II. Legislative framework for the labor inspectorate

In article 49, chapter IV, of the Constitution³, Albania grants the right to work and to choose a profession. Furthermore, the Constitution underlines the right to social protection⁴ and to social security upon retirement and in case of disability⁵.

The core labour legislation is included in the Labour Code of the Republic of Albania (Law No. 7961/1995), which has been amended by Law No. 8085/1996 and Law No. 9125/2003. Subjects such as employment relation, occupational safety and health, working hours and breaks, night work, additional relevant payments, national holidays and annual leaves for workers are included and regulated⁶.

In 2006 Albania adopted a new law on Labour Inspection and State Labour Inspectorate⁷ which sets out the principal powers and rights as defined in Convention No. 81, but which also reflects institutional aspects and the structure of the State Labour Inspectorate (SLI).

The law includes provisions related to the functioning of the labour inspection system, general mission of the SLI, the organizational structure and management hierarchy of the SLI, the authority, functions and powers, and the sanction and procedural system. The law also introduces the cooperation with other public and

³ Albanian Constitution, approved by the Albanian Parliament on 21 October 1998.

⁴ Art. 49 Nr. of the Constitution.

⁵ Art. 51 of the Constitution.

⁶ The government has announced its mid term plan to reform the occupational safety and health regulation to be in harmonized with the EU Framework Directive on the introduction of measures to encourage improvements in the safety and health of workers at work, 391/89/EEC.

⁷ Law No. 9634 on Labour Inspection and State Labour Inspectorate, dated 30.10.2006.

private institutions, and subjects that should always be regulated by the Council of Ministers Decrees⁸.

Complementing the Law, the Decree of the Council of Ministers No. 457/1998 “On the Approval of SLI Statute” defines the purpose of the foundation of the SLI, the area of activity of the inspectorate, the management structure of the institution, and the manner of appointment of the head of the SLI.

As potential candidate country to the European Union, Albania is trying to align/adapt its legislation to the EU directives mainly in relation with occupational safety and health (OSH). Currently, the government is working on the draft legislation which, once introduced, would have an important impact on the work to be developed by the SLI. Moreover, a national strategy on safety and health at the workplace is planned for June 2009. This would be the base for the identification of priorities and the design of an annual plan for SLI in relation with OSH matters.

III. The labour inspection system in the MoLSA

At the national level, the Ministry of Labour, Social Affairs and Equal Opportunities (MoLSA) is the main authority administrating labour and social matters, including labour inspection⁹. The mission of the MoLSA is the development, coordination and implementation of effective employment systems, promotion of labour market opportunities, social insurance and social assistance, in line with the European Union standards. MoLSA is decentralized in its main structure and has regional divisions concerning social services, employment services and labour inspection.

Institutional responsibilities of the MoLSA are defined for the following fields:

- Labour market and professional qualification,
- Provision of social services,
- Promotion of labour relations and social dialogue,
- Organised migration for employment purposes,
- Occupational Safety and Health,
- Promotion of labour market mechanisms.

In this framework, the State Labour Inspectorate has been set up in 1995 as a public institution and an autonomous body.

According to article 5 of Law on State Labour Inspectorate, the Minister elaborates policies and takes measures, for the a) implementation of labour legislation provisions in all kinds of jobs; b) fostering of safety precautions in the workplace where dangerous substances are used; c) enforcement of measures for the prevention of accidents at work and prevention of profession-related diseases. The Minister achieves

⁸ To support the activity of SLI and the work of labour inspectors, the government has also prepared a number of decrees (see above), which define and set out the procedures, appropriate measures and the necessary documentation that companies should make available.

⁹ According to the article 199 of the Labour Code the Labour Minister is the competent administrative body for implementation of the labour legislation.

these responsibilities and competences through the inspection structures and bodies established for this purpose, as it is also the case for the State Labour Inspectorate.

There are other bodies with specific or labour-related inspection tasks. Defense, or national security institutions are established special structures, which inspect the safety and health issues regarding entities and persons subject to these institutions. In addition, the Central Technical Inspectorate, operating under the Ministry of Economy, Trade and Energy, includes specialized inspectorates such as the Inspectorate for Electrical Equipment and Installations, the Inspectorate for Control of Petroleum and Gas and the Inspectorate of Mine Inspection and Rescue; the latter performing technical safety controls in mines and carriers¹⁰. Moreover, the inspection of prison work is also excluded from the scope of the State Labour Inspectorate.

Concerning the responsibilities of MoLSA and the SLI for occupational safety and health, there is a certain duplication of efforts with those of the Ministry of Health and the State Sanitary Inspection (SSI). The SSI has been accorded competencies in OSH, including inspection functions, by Law No. 7643/1992 “On the State Sanitary Inspectorate”¹¹ as amended by Law No. 9635/2006.

All companies liable to be monitored by the SSI should make a self-declaration on the fulfilment of health and hygiene in their premises. The SSI is also charged with monitoring and control of exposure to toxic substances, radiation, noise, vibration, extreme temperatures, and of occupational accidents and diseases. The same law assigns the SSI to cooperate closely with other state institutions, including the labour inspectorate, when exercising its activities. An agreement has been signed by the Ministers of Labour and of Health to establish this cooperation. However, in application, cooperation is not really practiced. Relations between the SLI and the SSI are discussed in detail in the chapter “Collaboration with other authorities”.

As to social security legislation, it seems to be enforced by several bodies. On the one hand, it is enforced by the State Labour Inspectorate¹², and on the other hand the National Fiscal Administration also monitors the payment of contributions for social and health insurance, as it is responsible for the collection of these contributions from urban workers, whereas the Social Insurance Institute manages and supervises the collection of social contributions from rural workers¹³.

¹⁰ National Profile of Occupational Safety and Health in Albania, Tirana, March 2007, p. 13, 26.

¹¹ The Law No. 7643/1992 “On the State Sanitary Inspectorate” defines the organisation, powers, responsibilities and functional procedures of the SSI, and the administrative violations in the field of health.

¹² Article 13 para 4 b) , law No. 9634 on labour inspection.

¹³ Addressing the Problem of Undeclared Work in the Construction Sector through Social Partnership in Albania, p. 27.

IV. ILO Conventions ratified by Albania and major comments of the Committee of Experts

The Republic of Albania has ratified 51 ILO Conventions, which are listed in Annex I.

Amongst those, the labour inspection Conventions No. 81 and No. 129, which had been ratified in 2004 and 2007 respectively; Convention No. 144 on tripartite Consultation, Convention No. 150 on Labour Administration and Convention No. 155 on Occupational Safety and Health and its protocol, which had been ratified in 2004.

As to Convention No. 129, the Committee of Experts has not had the occasion to pronounce its point of view as a first report has yet to be submitted.

With regards to Convention No 81, the Committee of Experts, following the submission of the First Report on the application of Convention No. 81, raised questions as to the cooperation with other government services, including judicial bodies, public or private institutions, collaboration with employers and workers and their organizations, workplaces liable for inspection, as certain workplaces to which specific laws apply are, by law, excluded from the scope of coverage of labour inspection.

Another item of interest was recruitment, conditions of service and training of labour inspectors, means for the effective discharge of duties, the right of free entry to workplaces, and how labour inspectors' powers are exercised in practice.

Regarding the implementation of Convention No. 155, the Committee of Experts has not had the chance to take a position.

V. Industrial relations and Tripartite structures

The main trade unions on the national level are the Union of Independent Trade Unions of Albania (BSPSH) and the Confederation of the Trade Unions of Albania (KSSH). Trade unions are grouped in federations according to their specific industrial sector and membership. The degree of unionized workers varies from 25-30%¹⁴.

As to employers' representative organizations, there are six major organizations: the Confederation of Employers' Organisations, the Confederation of Employers' Organisations of Albania, the Albanian Constructors Association, the Union of the Albanian Business Organisations, the Albanian Association of Industrialists, and the Confederation of Albanian Industries¹⁵.

¹⁴ Information taken from: Addressing the Problem of Undeclared work in the Construction Sector through Social Partnership in Albania, Tirana, September 2008, p. 14 f.

¹⁵ Ibidem.

The National Labor Council is the main tripartite body¹⁶. The activity of the NLC is based on the DCM No. 370/1996. The NLC reviews issues that have to do with common interests of the employers and employees, especially those related to policies and legislation for the promotion of employment, vocational education, wages in the private and public sector, social insurance, occupational safety and health and social issues. In 2008, the National Labour Council included government representatives of different Ministries such as the Ministry of Labour, Social Affairs and Equal Opportunities, the Ministry of Finance and the Ministry of Economy, Trade and Energy. The Ministry of Labour and Social Affairs provides the Secretariat of the National Council of Labour.

The National Labour Council is made of tripartite commissions as follows:

- 1) Commission on Promotion of Employment
- 2) Commission on Vocational Education
- 3) Commission on Wages
- 4) Commission on Social Insurance
- 5) Commission on Occupational Safety and Health
- 6) Commission on Social Affairs.

The tripartite commissions have the duty to examine issues related to their field of competence and to transmit their opinions to the NLC on: a) orienting and implementing government policies in their respective fields of activity; b) drafting laws and decrees of the Government that have to do with their fields of activity, c) reviewing the issues which the NLC has addressed to them for consultation and request for opinion. In order to achieve these objectives, each commission may establish task forces, as well as require consultation from experts of various fields.

The chairman of the Commission on Occupational Safety and Health is the General Inspector of SLI.

The NLC operates only at the central level.

The National Strategy for Development and Integration 2007-2013 (NSDI) foresees the strengthening of social dialogue. However, the position of both trade unions and employers' organizations continue to be very weak and the social dialogue is still at an early stage.

¹⁶ The NLC is made of 25 members, 5 members are from relevant Ministers, 10 members are representatives of employers' organizations and 10 members are representatives of employees' organisations. The Minister of Labour is the chairman of the NLC. The two deputies are appointed respectively by the most represented employers and workers representatives and are reappointed once in two years. Members are chosen every 4 years. The Council as a rule convenes not less than once a year.

VI. Labor inspection: main features and developments

General description

The State Labour Inspectorate was, as previously mentioned, established in 1995, and to this date, has conducted considerable activity in guaranteeing the compliance of labour law in different areas.

The labour inspection law 17 is applicable to legal and natural persons, private or public, foreign or domestic, who undertake profitable or non-profitable economic activity(ies) within the territory of a country. Workplaces which are subject to a specific OSH and labour relations-related inspection regime, and workplaces which are linked to institutions and activities of national defense¹⁸ are excluded from its scope of coverage. Although the State Labour Inspectorate is responsible for inspection in the agricultural sector, it is not covered in practice.

According to article 6 of the Law on Labour Inspection and the State Labour Inspectorate, the State Labour Inspectorate has the responsibility to enforce legal provisions and collective agreements relating to the conditions of work such as; working time, wages, safety, hygiene and welfare, child labour, migrant work and other vulnerable workers¹⁹. In addition, the labour inspectorate is authorized to control the payment of social security contributions²⁰ and to issue the working permission for the 14-16 year olds. Labour Inspectors may, in particular cases, also directly impact on the employment relationship, finalizing individual labour contracts and adjusting contract provisions in individual labour contracts²¹.

The State Labour Inspectorate also grants permits for starting any economic activity, which implies an initial verification and assessment of premises plans, including equipment, devices and number of workplaces²². The Inspectorate is also represented in the commission which screens license applications of private employment agencies²³.

The State Labour Inspectorate is, as a public central institution under the MoLSA, composed of three General Directorates at the central level in Tirana, and of regional directorates with district labour inspection offices.

Since 2006, the labour inspectorate has been operating as an autonomous institution. It has been restructured in 2008, but is currently, at the central level in Tirana, still sharing offices and office equipment with the Ministry of Labour, Social Affairs and Equal Opportunities. Its current set up could be displayed as follows:

¹⁷ Law No. 9634 on labour inspection.

¹⁸ Article 4, law No. 9634 on labour inspection.

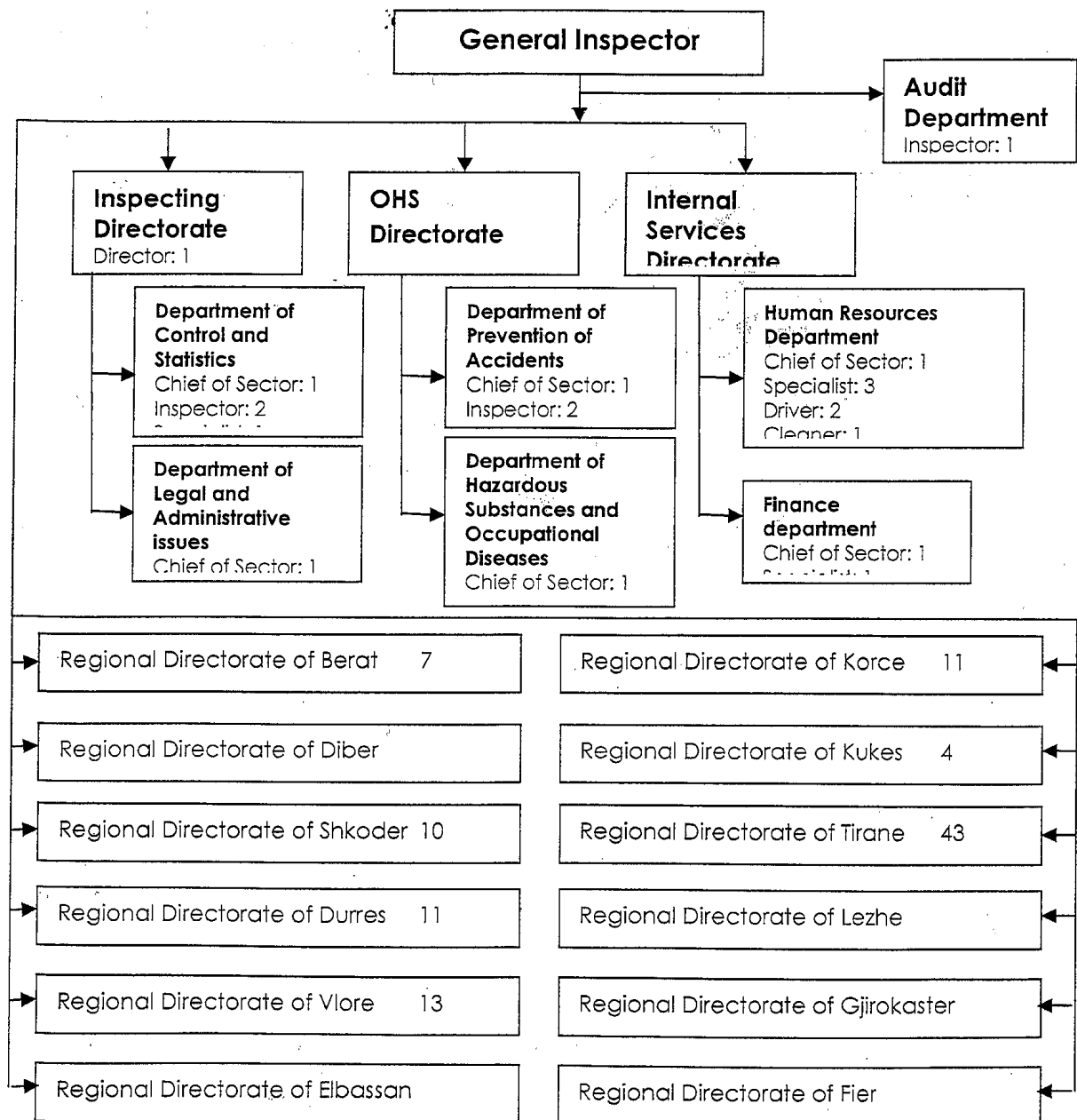
¹⁹ Article 6, article 5 para 1, law No. 9634 on labour inspection.

²⁰ Article 13, para 4 b) law No. 9634 on labour inspection.

²¹ Article 15, para 1. h), law No. 9634 on labour inspection.

²² National Profile of Occupational Safety and Health in Albania, Tirana, March 2007, p. 10.

²³ Article 2, Instruction No. 612 on the operation of screening commissions for the licensing applications of private employment agencies.



There are three main directorates at the central level: The Inspecting Directorate, the OSH Directorate and the Internal Services Directorate. In parallel, there is an Audit Department, which has yet to become operational as it has only recently been created. There are twelve regional directorates which, through their regional directors, report directly to the General Inspector who heads the labour inspectorate (Regulation No. 512/2006, "Regulation on the functioning of SLI at central and regional level).

Likewise, the heads of the three Directorates report to the General Inspector.

The General Inspector is appointed by the Minister and the appointment is approved by the Council of Ministers. He/she represents the SLI and manages its activity. The General Inspector has the duty to set the general strategy of the SLI,

exercise disciplinary authority and propose inspectors for appointment to the Ministry of Labour at the central, regional, and district level. He/she determines internal regulation, administrative functioning and cooperation within the State Labour Inspectorate.

The General Inspector also transmits the annual labour inspection report to the Minister of Labour and to the Parliament.

The Directorate of Inspection in the SLI has, as its main duty, the control and management of all inspection processes on worksites. It coordinates work with the OSH directorate in the SLI, prepares progressive reports on the activity of the inspectorates in districts and regions in collaboration with the Internal Services Directorate, assists in the preparation of annual work programs and the annual report, assists in the identification of training needs for labour inspectors and elaborates inspection methodologies, for instance, giving guidance on how to impose sanctions.

The directorate includes the Department of Statistics and Control, and the Department of Legal and Administrative Issues.

Through the Department of Control and Statistics, the Directorate of Inspection evaluates and analyses the inspection process throughout the territory of the country, on the basis of labour inspection reports and monthly reports on work completed, which are sent to the department by the regional directorates. Moreover, data are also used to identify training needs, in cooperation with the Internal Services Directorate. Data collected are filed within this department.

The Department of Legal and Administrative Issues in particular, prepares the cooperation agreements with other institutions such as the sanitary inspectorate. It harmonizes labour and OSH related legislation with EU standards, hosting the Ministry's focal point for EU standards harmonization and gives legal advice to the General Inspector. It ensures an internal control of labour inspection activities with regards to its legal aspects. It also represents the labour inspectorate in court during legal proceedings against labour inspection acts.

The Audit Department has recently been set up; however its mandate is not very clear at present, and there is currently only one budgeted post within this unit. Currently, it supervises the internal use of resources. However, its function is not limited to that, monitoring compliance with cooperation agreements with other institutions, which should technically be part of the mandate of the legal section within the inspection directorate, also falls under the auditing unit. Moreover, the Audit Department should also survey if labour inspectors follow their code of conduct, proposing eventual disciplinary measures to the General Inspector. (This task is more suited to the legal unit's expertise.) In this regard, there is a crosscutting of competencies with the Department on Legal and Administrative issues.

The main duty of the OSH Directorate, which is a relatively new Directorate in the SLI, is the monitoring and implementation of the labour legislation in the OSH field, with the purpose of preventing accidents and occupational diseases. It has also been involved in strategy setting and in the drafting of the Albanian legislation in the field of OSH. A new law on OSH is in the process of being drafted and should be ready for discussion and adoption in June 2009. This will transpose the provisions of ILO

Convention No. 155 on Occupational Safety and Health and of the EU Framework Directive 391/89/EEC.

The directorate includes the Department of Prevention of Accidents and the Department of Hazardous Substances and Occupational Diseases. The Department of Prevention of Accidents provides directives to the regional directorates and elaborates procedures in the area of occupational safety and health, for instance, with regards to accident investigation. It verifies permits for new enterprises that are starting-up, such as for water, fire, sewage and perimeter fences. Additionally, the directorate identifies high risk areas as an inspection priority and, in collaboration with the Inspection Directorate and the Internal Services Directorate, identifies training needs and elaborates on annual work plans and work programmes in the area of OSH, which are circulated through the directorates at the central level, for comments under the coordination of the Internal Services Directorate.

The Department of Hazardous Substances and Occupational Diseases has only been established in 2008, and its mandate has not yet been properly shaped. It proposes and develops promotional material in the area of occupational safety and health and develops educational material on hazardous substances.

It is obvious that there is considerable overlap and duplication of OSH activities between the SLI and the State Sanitary Inspectorate (SSI), at both central and regional level, at least in theory, and particularly in relation to the hazardous substances and occupational diseases section (see chapter on “collaboration with other authorities” for further details).

The Internal Services Directorate, which includes a Human Resources Department and the Finance Department, is supposed to mainly serve as a coordination and internal control unit. Covering human resources and financial matters, this Directorate is – according to the organisational framework- entrusted with the coordination of examinations, recruitment, performance appraisal and need assessment. However, as there is no staff with a technical background in the service, in practice, it depends from the input provided by the Inspection Directorate and the OSH Directorate, which are also involved in the need assessment. For the same reason, the distribution of competencies between the Internal Services Directorate and the Inspection Directorate remains unclear as regards performance evaluation of labour inspectors, due to the absence of technical expertise for labour inspection within the Internal Services Directorate.

The Finance Department liaises with the State Finance Office and monitors the expenditure of the budget of the labour inspectorate.

The Internal Services Directorate is also entrusted with technical tasks which are obviously not related with its core tasks, such as child labour monitoring. It also serves as a coordination unit, gathering comments and information from other directorates and consolidating them in an annual labour inspection report. Furthermore, the Directorate holds an archive containing correspondence between the central level and the regional level; and in the latter regard, there seems to be a duplication of archives, in view of the fact that the statistics department also gathers data on the basis of information circulated from the regional directorate to the central level before returning information back to the regional directorates.

At the regional level, there are 12 regional labour inspectorates (Berat, Tirana, Diber, Shkoder, Durres, Vlore, Elbassan, Korce, Kukes, Lezhe, Gjiokaster, Fier) and the rolling out of the labour inspectorate to the 36 districts has not yet been completed. Under the supervision of the regional director labour inspectors enforce labour legislation, including legislation on occupational safety and health. The regional directors define the priorities of inspection in their respective regions and suggest monthly and annual work plans to the General Inspector, setting the targets for their inspection teams.

Cooperation and communication between the labour inspectorates in the field and the central authority take place through monthly meetings between the General Inspector and all regional office directors. Furthermore, all inspection visit minutes, minutes on fines, filled-in inspection forms and monthly work reports are circulated from the regional directorates to the central level for information and data assessment purposes, and inspection plans at the central level are elaborated under the consultation and upon proposals submitted by the regional directors.

From 1995 until the end of the year 2006, the SLI has been one general directorate in the ministry, therefore its budget was not separated from the overall budget of the ministry at that time. However, since January 1, 2007, the SLI has been functioning as a public institution, with a separately programmed budget for the central structures. A budget line within the Ministry budget has since been dedicated to the general labour inspectorate, which ensures its independent operation.

Human resources and career

According to article 8 of the law on labour inspection, the SLI personnel is composed of public employees (inspectors and controllers) and support personnel.

As for the SLI public employees of the General Directorate, Regional Directorates and district offices for inspection at work, their rights, duties and procedures to follow are implemented as stipulated in the law No. 8549, of 11.11.1999 “On Civil Employee Status”. The Decision of the Council of Ministers “On organization and functioning of the SLI”, has specifically regulated the status of labour inspectors. According to this decision, each labour inspector becomes a public employee after being selected based on a competition procedure (see details below). A nomination act issued by the General Inspector then formally confirms the outcome.

Although employees of the labour inspectorate do not have ordinary civil employee status, their recruitment, discharge, as well as the disciplinary measures that may be taken against them, are implemented with the same procedures following those for civil employees. Disciplinary measures against inspectorate employees may be taken based on the procedures defined for civil employees in sub-legal acts following the law “On the civil employee status” and sanctions are imposed by the General Inspector at the proposal of the regional directorate.

The inspection system uses the services of 165 employees, out of which 25 are in the General Directorate at the central level, and 140 individuals in the regional structures. Out of these 140 employees in the regional directorates, 95 are inspectors, the remainder work as controllers (with visit competencies but no powers to sanction) and assisting personnel. The SLI employees are structured and deployed in the General Directorate and regional inspection offices (12) according to the stipulations of the

Prime Minister Order No.6, of 20/06/2007 “On approval of the structure and organigram of the State Labour Inspectorate”.

In Tirana there are 41 employees. Under the regional director, 6 heads of units supervise 6 inspectors each, and there are 5 support (administrative, archives, and clerical) employees for the whole region of Tirana. Tirana inspectors cover around 20.000 enterprises. In Fier there are 9 employees (One Director, one head of unit, one administrative official and 6 inspectors) covering around 6.400 micro-entrepreneurs and 561 legal entities. At the regional level, inspection visits are also undertaken on the basis of inspection plans by a team of two inspectors. Inspectors devote around 1 hour per day for the registering and re-registering of enterprises.

Only 70 percent of enterprises are covered by labour inspection services, due to shortage in personnel, vehicles, and financial resources. The number of economic (legal) entities that a pair of inspectors covers per month, varies from 20-27. In 2006, 67473 private premises were inspected, covering around 200.000 employees. Understaffing and insufficient equipment is a normal occurrence at the central and regional level. In the Tirana regional office, only 1 car, 7 computers, some land-line telephones (no mobile phones) and a photocopy machine are available. No personal protective equipment, such as hard hats, boots and goggles, are provided, and no technical measurement tools are available at HQ or at the regional level (Measurements related to the working environment, such as, noise, temperature, dust and other contaminants, are carried out by the SSI at the central and regional level). In Fier, no vehicles, computers or any other facilities/tools are provided, and all inspectors share the same office.

Information on labour service inspection 2006²⁴	Total
Total number of staff in labour inspection services	130
Number of inspectors	90
HQ versus total staff (%)	11.5%
OSH versus employment inspections (e.g. 100:0, 50:50, 45:55...)	50:50
Percentage of economically active population covered by labour inspection services	60%
Inspectors/1,000 enterprises	0.001
Inspectors per 1,000 employees	0.94
Inspections/1,000 workers/year	9.7
Visits by one inspector per year	80
Inspectors per computer	0

As previously mentioned, one of the main problems for SLI is the lack of technical and financial resources to carry out the activity that the current legislation requires. Only 70 % of micro-entrepreneurs and legal entities in the country are covered by labour service inspections, not to mention the activity in the agricultural areas that have been described by all the inspectorates as a “Black Hole” as an enterprise register for agricultural undertakings is non-existent. Activities in the

²⁴ Information taken from : National Profile of Occupational Safety and Health in Albania, Tirana, March 2007, p. 32, 33.

agricultural sector are mainly illegal, and due to the lack of competencies for inspecting illegal premises without prior communication and visit from tax inspectors, labour inspection is inexistent. To add to the problem, most of the landowners are small entrepreneurs and family workers that do not register their agricultural businesses.

The labour inspectorate budget being short, salaries are also low. The average salary for a labour inspector is 300 Euros per month (plus 35% bonus for difficult conditions at work) and no transport, (or official transport means), reimbursement, or DSA are provided.

Few inspectors are qualified for the inspection methodology and procedures. The SLI is an institution where foreign donor assistance has been lacking for a long time, which prevents the improvement of the institutional capacity and an effective performance, which other institutions in MoLSA have benefited from. The employment policy of SLI has been regulated lately through the implementation of the law on employment in the public administration, i.e. through competition. There is still no clear methodology with regards to the way of hiring new inspectors and their qualifications, even if an examination is due and, in principle, done.

The first condition for employment in SLI is a university degree. Preferred professionals are graduates from engineering, economics, and medicine. After being hired, the new employee performs unspecialized duties (no sanction powers) and is appointed as a labour controller. He/she always performs monitoring and control, accompanied by another inspector in entities that shall be inspected. After completing one year of work, the controller undergoes a qualification test, which is prepared by the SLI. Based on the results of this test, the controller is promoted to inspector or in case of failure, he/she will continue to exercise the job as a controller.

There is no real training plan (aside from the three month orientation course, as per all new recruited civil servants) and everything is learned on the job or by (recently) on the spot courses financed by foreign donors. In some cases, after the training course, inspectors are due to pass additional exams to validate their new-found knowledge.

Inspectors and controllers must submit periodic reports, in the same way the SLI prepares annual activity reports and sends them to the Parliament, as well as to the ILO. However, there is no real system of appraisal, as it is limited to a control of productivity based on filled-in forms on the work completed, which are submitted monthly. Parallel to that, monthly, quarterly and yearly plans are prepared at all levels by the different authorities of the State Labour Inspectorate (see under “general description”) based on priorities and, on the results reflected in the reports.

In December 2007, the government adopted amendments to the law on the evaluation of the performance of civil servants, and in January 2008, a new reward system for civil servants has entered into force. However, turnover of staff due to political pressures has continued. The Civil Service Law, regulating public administration is in place, but it is not applied systematically. The Department of Public Administration (DoPA) is currently drafting a strategy on public administration reform, including sectoral training plans and covering local government bodies, but the mission has no information on the impact of the new strategy on the labour inspectorate as an autonomous institution. In spite of this, the role of the DoPA in ensuring implementation of the Civil Service Law and the capacity of the Training Institute of Public Administration (TIPA) remain weak. The capacity of the Department of Public Administration to steer the civil service towards an independent, merit-based, and professional body, needs further strengthening.

The absence of sound accountability mechanisms in public administration increases the opportunities for bypassing established procedures, and frequent replacements of civil servants are undermining the independence of the civil service and increase the opportunities for bribery of public officials.

Visit

Labour services inspections are carried out in a planned, random, and in a coordinated (in theory) manner with other similar institutions such as SSI, the inspectorate for Electrical Equipment and Installations (IEEI) and the Inspectorate for the Control of Petroleum and Gas (ICPG). As a rule, inspections are at least made by two people, one inspector and one controller, or two inspectors. Most of the visits are planned and programmed and only around 5% are motivated by complaints (the rate of complaints is really low).

In all the regions, inspectors go to the entities to be inspected either by foot or by car, when vehicles are available. However, there are no cars, and reimbursement, in case of use of public transport, is not provided.

One inspector makes, in total, about 10-15 inspections per month: this number is greater in cases of unforeseen inspections or in cases of serious incidents.

After showing their accreditation and identifying themselves in the presence of the employer, the inspection is carried out, revising documentation and visiting premises. Due to the lack of union representatives or committees at the enterprise level, there is no worker participation in most of the cases. In all cases, the inspector is required by law to follow professional ethics rules during inspections.

The visit is carried out with no check list, and only an internal instruction on the process of the visit, that has been circulated among the labour inspectors, and prepared by the Inspection Directorate, is available. Inspectors are guided by the ILO's "Tool Kit for Labour Inspectors"²⁵ which has been translated and published in Albanian; however more guidance on how to conduct labour inspections and labour inspection

²⁵ Tool Kit for Labour Inspectors: A Model Enforcement Policy, A Procedures and Operations Manual, A Code of Ethical Behaviour".

functions could be provided. Even the training of the inspectors is not delivered in an efficient manner, and there is no training standard.

Aside from the control activities, the labour inspector also prepares and maintains the necessary documentation for labour inspections services; he/she prepares the monthly inspection plans and the monthly inspection reports and also submits the necessary inspection documentation.

Inspectors use a form that is filled-in by the inspector/controller during the inspection and signed by both the inspector and the employer. The latter then receives a copy for records purposes. In addition, and during the visit, a section requesting basic data relative to the inspected enterprise has to be filled in. The inspection form contains 8 parts, which are as follows:

- 1) General data on the entity;
- 2) Labour relations;
- 3) Data on the employee;
- 4) Data on work duration and breaks;
- 5) Data on the technology and raw materials;
- 6) Data on the occupational safety and physical conditions and other hazardous items;
- 7) Data on occupational accidents and diseases;
- 8) Data on the occupational safety and health documentation.

The labour inspector should prepare the following documentation for labour inspections:

- The registry of entities that declare their economic activity in the SLI;
- The file of labour legislation and OSH;
- The file of monthly and annual work programs;
- The file of entities controlled and inspected;
- The file of entities that benefit from government programs of employment promotion;
- The file of monthly and annual work reports;
- The file of claims from entities;
- The file of occupational accidents.

Inspections usually last from 1-3 days depending on the size of the company, problems, working occupational safety and health conditions, and on the number of inspectors that are carrying out the inspection. After conducting the inspection in the presence of the owner/manager, an inspection report is prepared; it indicates all places/equipment that were inspected in the premises and all actions to be undertaken following the inspection visit. Labour inspectors can impose measures and formulate recommendations that should be met within a defined notice, (between 10-20 days) or penalties if the infractions are very serious. In case the entity does not improve the working conditions, then the inspectors may suspend or halt the economic activity of that entity. However, this decision requires confirmation, within 48 hours, by the General Inspector (see details under chapter “sanctions”).

As to inspections carried out in 2006, most of the inspections (and sanctions originated thereby) were related to the registration of workers, child labour, maternity protection and, to a lesser extent, safety and health problems, but the number of

sanctions is very low. In fact, in Tirana, only 5 sanctions were imposed and in Fier, only 3. Labour inspectors are also in charge of the investigation of work accidents (see below).

The employers should make the following available to the labour inspector each time it is required:

- a) Declarations of accidents at the workplace for the last three years,
- b) The list and job positions,
- c) List of hazardous substances used in the enterprise.

All necessary access to facilities for lawful inspection of entities should be granted to inspectors. The Labour Inspectors have the right to ask for help from the State Police in cases:

- a) when inspectors are hindered in exercising lawful control on entities;
- b) when execution of the labour inspector decree is not accomplished by the company.

Sanctions for the obstruction of labour inspectors are established in the labour code. In this regard, there seems to be real collaboration between the State Police and labour inspectors.

In relation to child labor, the figures are not very dramatic. Inspections carried out in the first half of 2004 found only 0.01 percent of the employees were underage²⁶, nevertheless in 2006, the number of sanctions related with minors and women were 45. There are some specific monitoring groups in which the State Labour Inspectorate participates in.

A number of national strategies, including the Government of Albania's 2001-2006 National Strategy for Children, the Poverty Reduction Strategy Paper, and Strategies on Education and Social Services, have integrated child labour concerns. In this framework, the Ministry of Labour's Child Labour Unit provides training to labour inspectors on the identification and monitoring of child labour-related matters.

A major problem is related with illegal work. Even if inspectors can visit any enterprise, they are only entitled to visit those registered at the regional inspectorates. When labour inspectors detect any illegal entity or enterprise in the course of their duties, the only action they can undertake is to issue a communication to the taxation inspection under the tax authorities, as it is the inspection in charge of the primary registration, and thus, must also take the appropriate action. Labour inspection can only act within a second visit, once the taxation office has registered the enterprise. This situation has special impact in rural areas, leading to a gap of coverage in practice (see above sub "general description").

In addition, the tight and strict programming of inspection visits at all levels limits, in practice, the discretionary powers of inspectors for visiting any enterprise on their own initiative.

²⁶ The Department of Labor's 2004 Findings on the Worst Forms of Child Labour
http://www.dol.gov/ilab/media/reports/iclp/tda2004/#_ftn126.

Authorisation and registration:

The Decree of the Council of Ministers No. 513, dated 30.07.2004 “On the classification of the activity and documentation for permission from the Labour Inspectorate before the start of the economic activity” defines the obligations of private and public entities, which before starting their activity should complete the necessary documentation, before they apply for permission from the SLI. The registration, which follows the granting of the permission, has to be redone yearly. It is done manually in the regional inspectorate premises. This register is independent and not coordinated with the central registry of natural persons and legal entities.

At the same time, any economical activity should be registered in the National Business Registration Center and tax authorities also have a register for their purposes. However, there is no communication of any data entry from one institution to another. The State Labour Inspectorate has the right to acquire this data. However, in practice, requests are more often than not, ignored.

The employer who intends to perform an activity that is classified as difficult or hazardous to human life and health, in conformity with DCM No. 207/2002 "On defining hazardous and difficult works", has to obtain a permission from the labour inspector before starting their activity or part of it, before the preparation of the work premises, as well as before introducing any important changes in the work process. To receive this licence, the employer should submit a written request and the following documentation to the labour inspectorate of the respective region:

- a) The plans of the premises accompanied with the standards and norms on air conditioning, lighting, vibration, noise, and pollution;
- b) The list of dangerous machinery and substances which will be put into operation;
- c) Size of surface areas and volumes of workplaces;
- d) The layout of machinery and equipment, and the approval given by the IEEI.

Within 5 days from the termination of the workplace verification, the labour inspector decides on whether to grant the permit or not.

Notification of workplace accidents and diseases

A DCM, No. 460/ 1998 on “Occupational Accidents” states that in the event of an occupational accident, which causes death of the worker or serious damage, the employer, after giving first aid, should immediately report the accident to the Prosecution Office, the State Labour Inspectorate, and the Social Insurance Institution.

A further DCM on “Employer registration for occupational accidents and diseases” has been also issued in 1998 in support of the Labour Code. It states that the employer shall keep within the company offices a registry of occupational accidents and diseases. All accidents or quasi-accidents (near-misses), diagnoses of occupational diseases, a record of and diagnoses of the injury(ies) relative to body parts that were/are damaged, cause factors, number of days an employee is absent due to occupational accidents or diseases, shall be recorded in this register. Each sheet of the register is signed by the labour inspector and should be preserved by the employer for a five-year period. After this period, these registers are archived in the Regional Directorate of Social Insurance Institute. Reports on accidents and their details, in order to define the

causes, go to the Department of Statistics. In 2008 there were 20 fatalities, most of them in unlicensed chromium mines, and illegal work in the construction sector. The SLI first checks if the victim is insured in order to receive compensation, and then it looks at the cause of the accident to define the relative accountability by both the technical aspects, and the worker's responsibility. Any prosecution will base its proceeding on this assessment. The central labour inspection services do not receive data on occupational diseases; this is the domain of the Public Health Institute and the Social Insurance Institute. The department on occupational diseases has only been in existence for four months, and needs to develop cooperation between it and, the PHI, and the SII to share information. Cooperation with the SII has diminished since it was transferred from the MoLSA to the Ministry of Finance.

Although various private and public entities are legally obliged to record occupational accidents and diseases, this obligation is not fulfilled satisfactorily. The main problem rests with recording and the notification of occupational diseases rather than occupational accidents, in spite of the agreement between the Ministries of Labour and of Health, which also allows for the two to cooperate in the declaration and prevention of occupational diseases. The problem arises mainly because there seems to be no list or schedule of occupational diseases. Nor is there a viable mechanism to diagnose, and thus record, occupational diseases. In principle, occupational diseases should be reported to the Ministry of Health, but the system of occupational health is such that there is a lack of occupational health physicians to diagnose illnesses and qualify them as occupational or not. DCM No. 742/2003 amending DCM 692/2001 on "Specific measures for occupational safety and health" states that employers should provide access to occupational doctors in all companies with more than 15 employees, and for all entities classified as "dangerous" or where some activity is classified as "hazardous" or "difficult", no matter how many employees. The reality is that very few are covered due to a lack of licensed occupational health doctors (the National clinic for occupational diseases no longer exists, and there is no faculty for occupational health in the university in Tirana). In case of an illness which might be contracted at work, a worker will normally see a family doctor, who can only refer him or her to an occupational health doctor as these are the only professionals who can legally diagnose an occupational disease, but in Tirana, for example, there are only two such doctors. So, diagnosis and reporting of occupational diseases is obligatory, but there is no system to implement it. The same applies to medical examinations of workers. Each worker should have a medical file, but follow-up to it is problematic.

Statistical table relating to occupational accidents and diseases

Indicator	Number of cases	Year	Trend (increasing/ decreasing/ stable)
Fatal accidents	14	2006	Stable
Injury at work (resulting in more than 3 days absence)	143	2006	Decreasing
Compensated workplace accidents	140	2006	Increasing
Commuting accidents	10	2006	Decreasing
Serious work accidents causing disability of over 30 days	143	2006	Decreasing
Notified occupational diseases (total)	143	2006	Decreasing
Compensated occupational diseases	25		
Repetitive strain injuries	N.I.*		
Noise-induced hearing loss	N.I.		
Respiratory diseases	N.I.		
Skin diseases	N.I.		

Source: SLI 2007 *N.I. = No information

Collaboration with other authorities

Several agreements, which have the status of enforceable by-laws, have been concluded between MoLSA or the SLI, and other institutions such as the Ministry of Health and the SSI and the PHI, the environmental protection inspectorate, the mining inspectorate, the tax office, etc. The only formal DCM (No. 462/1998) in place concerns cooperation of the SLI with the State Police. Approaches have been made to the central technical inspectorate and to the Public Prosecutor's office, but have not resulted in any formal cooperation agreements. Despite the legislative improvements, in the legal aspect, there is still a place for institutionalising cooperation and coordination of SLI and other inspectorates. Although several internal agreements have been signed, collaboration is limited or inexistent in practice.

The State Labour Inspectorate is charged by law to control the application of the labour legislation regarding subjects which fall within its scope of coverage. An example is the periodical control of private employment agencies, which labour inspectors perform to check their compliance with the respective legislation. If during inspection, violations of legislation are detected, the SLI forwards them to the licensing commission to facilitate decision taking vis-à-vis the licenced employment agency²⁷. Likewise, work between the SLI and the respective employment offices is coordinated with regards to the control of the employment of foreign workers, to check if they have obtained a work permit according to the legislation in force²⁸. Cooperation with employment offices also takes place within the framework of the implementation of employment programs.

²⁷ DCM No. 708 of 16 October 2003 on the way private employment agencies are licensed and operate.

²⁸ Article 15, law No. 9634 on labour inspection and State Labour Inspectorate.

Of particular concern is the lack of cooperation between the SLI, the State Sanitary Inspectorate (SSI), and the Public Health Institution (PHI).

The SSI is the highest body of public health inspection and control, including occupational health and hygiene. It is managed by the State Sanitary Chief-Inspector, who, at the same time, is the Director of the Public Health Directorate within the Ministry of Health. The SSI and the Public Health Directorate, together with the Public Health Institution, are responsible for the scientific study, control and identification of factors that are harmful to the health of the population in fields defined by this law. The SSI is a specialised executive body that controls the implementation of sanitary laws in private enterprises and public institutions. Sanitary inspectors operate at the central and regional level, and study the working conditions of employees, including workstations and ergonomic factors, as well as monitor environmental risk factors, such as chemicals, dust, and noise. The local sanitary inspector has no authority to enter workplaces and will do so only when asked by the business itself, (usually on the demand of the labour inspector) or directly by the labour inspector, to take measurements. Sometimes, workers will ask for measurements of workplace exposures when they are entitled to extra pay for work in poor conditions (for example, workplaces with more than five percent dust in the atmosphere give the right to an additional 5% of the workers' salary). While the SSI is responsible for monitoring the workplace environment and has the tools for this, there is a real problem in the lack of reagents at the district level to analyse the measurements taken..

The Public Health Institution (PHI) is the site of the central SSI and operates in a similar way to the central SLI in that it instructs regional and district offices of the SSI to monitor sites, including enterprises, and to collaborate with the SLI, but it was said that such cooperation cannot be forced on inspectors. The PHI has laboratories and equipment for measuring and analysing contaminants, such as heavy metals and hydrocarbons. The Public Health Institution also makes annual analyses of visits and measures

A formal agreement signed between the Ministers of Labour and of Health ensures, in theory, close cooperation in the field of OSH inspections between the SLI and the SSI. This allows for either inspection service to alert the other when they suspect poor working conditions in an enterprise they are visiting. For example, a labour inspector has the right to ask a sanitary inspector to measure contaminants in the working environment, and a sanitary inspector can inform a labour inspector of suspected problems. The Public Health Institute has received a few requests from the SLI for monitoring contaminants in the shoe industry. In the Tirana office, notification of a potentially poor working environment was sent by the Director to the SSI by mail. The sanitary inspector may or may not visit. If a violation is found by the SSI, then its own sanctions will apply. They usually do not inform the SLI of their findings. Information about visits from other inspection services is passed through the employer.

In practice however, cooperation is very weak, and it remains to be put into practice in any meaningful way at the local level, and even at the central level in some respects; there has never, or only very rarely, been a joint inspection, for example. Both the central SLI and the Public Health Institute instruct the district offices to cooperate in OSH inspections and investigations, but it was said in Fier, that cooperation between the two local inspectorates has not functioned at all, over the past

2-3 years. Cooperation at the central and political level was considered as good, especially in the preparation of OSH standards and policy. In February 2009, a two-week capacity-building seminar was organised by the WHO on occupational health and the MoLSA and SLI participated. But while relations may be good at the central level, it has been voiced that one “cannot force inspectors to cooperate” at the district and local level.

There is no culture of cooperation, and there is confusion over who is responsible for what. There was, for instance, confusion over a list of occupational diseases, with both inspectorates saying that the other had developed such a list, but neither could produce one. Statistics on occupational diseases are needed, and it was agreed that different institutions should work together to develop such a registry which would allow access to statistical analysis for all. Another example is the development of a list of sites by the PHI that produce or use chemicals, which would be useful for the SLI in planning visits, but is not made available to the SLI. The result is duplication in place of cooperation.

There does not appear to be any cooperation between the two inspection services in the case of an occupational accident. Occupational accidents are the domain of the SLI, even though the SSI may have done a risk assessment in the workplace where the accident occurred. There may be cooperation in the case of acute occupational poisonings.

Moreover, there could be more cooperation with the inspectors of the tax authorities which consists of an information exchange rather than being a coordinated and joint approach.

In order to increase efficiency and cooperation of the State Labour Inspection with other institutions, the Minister of Labour appointed the National OSH Commission, which is chaired by the General Inspector and in which representatives of institutions covering working conditions and safety and health matters, participate. The Advisory Council for Inspectorates does not operate because there is no effective legal basis and no motivation for the members.

Sanctions and administrative procedures

The labour inspection law contains provisions relating to sanctions and procedures which are followed when inspectors reveal that the entities subject to inspection have infringed legislation under their control. Sanctions include warnings, penalties and suspension of activity²⁹. Moreover, the labour inspector may impose legal charges.

There are three categories of fines, and the amount of the fines is calculated by multiplying the number of employees with the amount of the minimum wage and a multiplier which varies in function of the severity and the extent of the violation³⁰. There is a method which gives guidance to labour inspectors as to how to use their discretion in imposing fines.

In practice, fines are imposed very rarely. For instance, in the regional labour inspectorate in Fier, only three fines out of 569 inspections were imposed. In 2008, throughout the country, 212 fines were imposed.

²⁹ Article 31, Law No. 9634 on labour inspection.

³⁰ Article 33, Law No. 9634 on labour inspection.

Within 30 days from receipt of notification, the sanctioned entities have a right to appeal, at the administrative level, to two bodies; the Regional Commission of Fines appeal in first instance, and the Central Commission of Fines Appeal in second instance. This Final decision may be appealed to the civil court³¹. Non-appealed inspection acts or confirmed decisions become an executive title which is only delivered by the court. However, an effective execution and thus, an efficient sanctioning is impeded by the fact that the labour inspectorate has to advance 7% of the amount of the fine to be collected once the labour inspectorate wishes to launch a judicial execution, and the labour inspectorate is neither reimbursed in the case of a successful execution, nor receives a share of successfully collected fines, accordingly allocated to the budget of the labour inspectorate.

These circumstances might perhaps explain why the rate of fines paid is actually below 50 percent.

The labour inspectorate has the right to suspend or completely halt the economic activity of entities which do not implement legal obligations after they have been inspected, and were warned or penalised. In this case, the decision of suspension issued by the labour inspector requires a notification to the General Inspector within 24 hours. The General Inspector then has to confirm the decision within the 48 hours from the notification³². In practice, it seems that these deadlines are met, as the decision of suspension can also be confirmed orally.

The suspension of activity is handled as a means of last resort and considered as an interim measure, allowing the employer to remedy significant defects discovered within notice, rather than an ultimate sanction; in 2008, economic activities were only suspended twice.

According to article 37 of the labour inspection act, non-compliance with specific labour laws may also be subject to persecution within a criminal procedure. According to the regulation, which applies to work related protection, a penal infraction is, in particular, given when the infraction causes death or serious harm of the person.

³¹ A system with administrative Courts is still about being set up.

³² Article 35, Law on State Labour Inspection.

Relation with social partners

In Albania there are seven main employers' organizations, which have been established in the last ten years. They are as follows:

- The Confederation of the Employers' Organisations
- The Confederation of the Employers' Organisations of Albania
- The Albanian Agribusiness Council
- The Albanian Association of Builders
- The Union of Albanian Business Organisations
- The Albanian Association of Industrialists
- The Confederation of the Albanian Industry

All these organisations were established after 1990 and they represent various groupings of Albanian businesses. In the OSH field, some of these organisations have established regular relations with the ILO. Most active in these mutually beneficial relations with the ILO are the CEO and the CEOA.

A considerable number of trade unions that have been grouped around two main confederations operate in Albania: The Union of the Independent Trade Unions of Albania and the Albanian Confederation of Trade Unions. Trade unions have their representatives in the NLC Commissions. In the OSH commissions, permanent representatives are chosen from the two confederations. The OSH commission convenes at least four times a year, and in December 2006 they discussed the SLI law, which was approved in the same year. In big enterprises with more than 100 workers, trade unions in general, have their representatives who, in cooperation with the employer, deal with OSH issues. This is a mutual obligation of the trade union and the employer, based on the collective contract. Important OSH matters are sanctioned in all the collective contracts concluded between the trade unions and the employers.

Collective bargaining occurs at two levels. At the first level, which is valid for the public sector, the collective agreement is signed by the respective Ministry and the sectoral Federations, e.g. the Federation of the Employees of Health Sector signed its collective agreement with the Ministry of Health. Furthermore the collective agreement at the secondary level, which is valid for the private sector, is concluded by the government representative at the regional level, and the trade union council in the region, for instance, between the Regional Education Directorate and the Trade Union Council of the Region on behalf of the Trade Union of the Employees of Education Sector. In this case, the agreement is signed by the Federation of Education Sector as the only judicial entity.

There is no law governing the cooperation with social partners and the SLI is not clear on how cooperation can progress. SLI has agreed to tackle this formally by 2010-11. There is no real knowledge, nor understanding of the labour inspection role. Worker complaints are very low, mainly because workers do not know they have a right to protection. An education campaign could raise awareness of rights, and the SLI would like to focus complaints through a "hotline". The trade union confederations have notified their members to provide information on occupational accidents and diseases to the regional labour inspectorates. At the level of the

enterprises, the unions complained that their representatives, where they exist, are not kept informed of the visits by the SLI and do not get information thereafter. However, the SLI has said that the union is informed of visits where they are active in an enterprise, but is of the opinion that representation is low and therefore collaboration at the enterprise level is difficult to arrange. Information on the presence of unions in a workplace is added to enterprise data as the SLI becomes aware of it.

A new law is foreseen for adoption in 2009 which will transpose the requirements of the EU Framework Directive on OSH. It will necessarily have to address the issue of responsibilities at the enterprise level and the issue of worker collaboration, both with employers and with labour inspectors, at least in the field of OSH.

At the tripartite level, social dialogue is ensured in the NLC and its tripartite committees, but the social partners are of the opinion that this could be improved. The employers, in particular, feel that the NLC is not as powerful as the tripartite councils in neighbouring countries and would like to see it become a decision-making body, with Ministers participating in its deliberations. The trade unions would like to see the establishment of district and regional-level labour councils, as social dialogue is missing at these levels, especially in the field of OSH, as a means for further cooperation, as no real collaboration, or exchange of information, exists.

Findings

General Comments

1. Albania has an organized and quite rationally structured labour inspectorate. It is a coordinated labour inspection system, with a clear role for the central authority and for the different directorates and units. Nevertheless, the actual structure of three directorates and an audit unit, with no clear definition of their respective functions, generate some confusion on the different responsibilities and tasks and also conduct to duplications, inside the labour inspectorate structure, and (related with OSH matter) in relation with other institutions, such as the sanitary inspection.
2. Labour inspection planning is done at the central and territorial levels (annual, quarterly and monthly) in a coordinated and hierarchical manner. Staff is highly professional, motivated, devoted and engaged in having an efficient inspection. The inspectorate has potential for the use of procedural guidelines for carrying out compliance inspections.
3. All these aspects form a good basis for building a modern and more effective inspection service although some problems (stated below) can affect this progression. There is no inherent or structural barrier to operating an effective and efficient labour inspection service, but there is room for improvement in some areas. In some cases, rationalizing, streamlining, and consolidating some procedures and structures can accomplish this. In particular, additional funding is urgently needed to increase the equipment, office space and logistical support.
4. Albania has ratified the main core Conventions related to labour inspection, strengthening the general national legislative framework needed for a better labour inspection. Nevertheless, some structural problems related with the agricultural sector could affect the application of Convention No. 129. No inspections are carried out in rural premises because it is alleged that these are in hands of independent workers, or of non-registered, small enterprises. Other sectors, such as fishing, need special attention and programs that have not been systematically approached.
5. The need to comply with the OSH EU directives, as a potential candidate country, will require a completely different approach to OSH in enterprises and at the national level. The emphasis on prevention and risk assessment and new responsibilities for employers to provide a safe and healthy working environment is a break from the previous focus on experts ensuring protection for employees, and requires a far-reaching attitude change. Training for the inspectors and social partners in new approaches to prevention has not yet started and should be undertaken at the same time.

Labor inspection structure and organization

6. The labour inspection service should be rationalized, in particular, at the central level with a better definition of the different central directorate. At the same time, some competences delegated to them, such as the yearly registration of enterprises, or the

filling of forms and the elaboration of resumes on their activities, could affect the quality of inspections and of course diminish the number of actions. In fact, the number of visits originated by complaint, or based in the central plan, could not fulfil the real needs of the country.

7. Inspections structures at the local and central level do not have any physical support and visits become difficult and costly at the personal level. In fact they share an office (generally one office for more than 10 inspectors) and they do not have any material to document the visit results properly (only forms filled in by hand and manually-filled registries). Other insufficiencies include the transport service (no cars and the costs for the use of public transport is not reimbursed), office facilities (lack of computers, fax equipment), registers and appropriate software for cataloguing inspection visits. Since labour inspectorate services cover only 70 percent of the country, the employment of the necessary number of workers and improvement of conditions in the working environment are indispensable.
8. The development of new integrated approaches such as multidisciplinary teams for child labour could improve effectiveness, collaboration and motivation. This could be a good element to explore, particularly when dealing with illegal work, taking into consideration that there are no joint activities with the tax inspectorate, even if there are some administrative internal cooperation agreements and an exchange of documentation and information. Implemented joint-inspection arrangements in the framework of these teams would provide visibility and focus on priorities and actions.
9. A more integrated or collaborative approach would also be beneficial in regard to OSH. Specifically, the role of the new bureau of occupational diseases and hazardous substances could be re-considered to take account of collaborations with the SSI and the PHI rather than duplicate roles with these institutions. The present agreement on cooperation allows for working together, but cooperation in practice is problematic, especially in the area of information and access to what would be necessary to plan visits better. This concerns information on OSH in enterprises, the results of monitoring and investigations of occupational accidents and diseases, where both the SLI and SSI have information of interest to the other, as well as the potential to organise inspections and investigations together. Another area of cooperation, with the SSI and the Social Insurance Institute, is the development of a list and a registry of occupational accidents and diseases.

Human resources and career development

10. Although inspectors have the status of public civil servants, there is no real human resources strategy for their recruitment and career development. Job descriptions by position, (in fact there is nothing in the laws as to the stipulation on duties and competences of labour inspectors and controllers) a selection process and examinations for recruitment, and a policy for promotion or seniority are non-existent. Salaries and incentives are not attractive.
11. Stipulations in the law regarding the geographical coverage of labour inspection led to an increase of the general number of recruited to 167 persons at the SLI during 2007. It is evident that this increase is not sufficient if we take into consideration, that in Albania, the percentage of new businesses is 17% per year; this is a fact that brings about difficulties in the coverage of the subjects with inspections within the year. The

SLI financial sources are highly increased, although establishment of structures at the local level requests additional financial measures in the forthcoming years.

12. There is no national training plan/programme. The only training available consists of informal on-the-job training, and general training that is given to all the civil servants. Some training is being developed under some funded projects conducted in the country but on an ad-hoc basis.
13. Planning and organization are good, (even too detailed and requiring quite an increased number of form-filling, as mentioned) but the insufficient level of staff, in relation to the amount of administrative and registration task, makes it difficult to increase the number of planned and discretionary visits that are necessary.
14. As to evaluation and performance, a structured and methodological system is inexistent. All the compilations of personal results are done under a statistical aspect and not with a clear analytical purpose.
15. Discretionary powers are quite limited. Planned visits (95% of the total carried out by the inspectors) are really concentrating the actions of inspectors with a clear lack of flexibility. Inspections are always related to the central and regional plans established by their respective authorities, and inspectors do not have a real autonomy to organize visits in their geographical zone using their own points of view.

Visit and functions

16. Visits are performed in conformity with the central/territorial programme and also at the request of individuals, (but only around 5% are complaint based) coordinated and included in the plan by the respective authority. Inspectors prepare the visit, looking for enterprise information existing in their own territorial registries (with a non-national scope). They have no access to other national enterprise registries, in particular, to the National Business Registration, an institution covering the entire country, which is IT-supported.
17. Visits are drawn up following a labour inspection plan and instructions of the authority. However, inspectors do not have enough materials to assist them in carrying out the varied and complex inspection procedures. Checklists and other support materials can be useful, in particular as regards the OSH aspects of the inspection.
18. The use of a prevention culture as a labour inspection tool is not really applied. The present system is particularly weak as to promoting the prevention of occupational accidents and diseases and some techniques should be applied to improve effectiveness. The use of risk assessment, in the ILO and EU understanding of the term, is a good prevention tool, and one which will have to be developed when the new law on OSH takes effect. (Risk assessment in this sense is not the same as the present practice whereby sanitary inspectors who measure workplace contaminants and other risk factors are said to be carrying out a risk assessment.) Awareness-raising of all concerned – employers, workers, LI, sanitary inspectors – will be necessary to explain what risk assessment is, and to alert everyone to their new roles.
19. There is a clear need for more collaboration with other authorities, in particular, safety and health authorities in disease and accident prevention. Joint-visits and investigations of occupational accidents and diseases with sanitary inspectors where appropriate, for example in hazardous workplaces, could lead to more efficient and

effective inspections and relations with employers, who could expect fewer individual visits. In cases where the labour inspectors and sanitary inspectors have information from visits which are of potential interest to the other, this should be shared in a formal and systematic way.

20. Rural areas are ignored in the inspection plans, as only registered enterprises at the territorial inspectorates are subject to Labour inspection visits. In fact, rural enterprises are mainly natural persons and small entities (self-employed or small enterprises) and there is no national strategy looking for their regularization. A better collaboration with tax inspectorates and the use of the national registries can open a new focus on this matter.
21. Obstruction is regulated and the labour inspectorate has an institutional and practical relation with the police when the entry to the premises is not allowed.

Registries and accidents/diseases at work reporting

22. Successful planning depends on an up-to-date and complete master registry of establishments at headquarters and in the field offices. At present, these do not exist. The lists of establishments must be entered into this registry and updated regularly, including all relevant details and information on previous inspections. This can be provided with a clear use of the central national registry avoiding duplication of registries that do not have a real different function.
23. There is an urgent need to develop a proper system using the existent resources. Designing an informative and computerized network is an important element in receiving permanent information and establishing a computerized control of the registration of employees in the private sector, which will serve to minimize illegal employment.
24. A list of occupational diseases needs to be developed, and a mechanism to support the diagnosis and registration of such diseases. Developing a list or schedule of occupational diseases may be relatively easy, but diagnosis is more problematic. This is the responsibility of occupational health doctors, who depend on the Ministry of Health for their licenses. However, Albania is desperately lacking occupational health doctors, but could work on access to basic occupational health services as promoted by the WHO in Albania recently. If diagnosis can be improved, the SLI could work together with the PHI to develop a registry of occupational accidents and diseases based on the ILO guidelines on “recording and notification of occupational accidents and diseases”, which have already been translated into Albanian.

Sanctions and administrative process

25. The attitude of labour inspectors towards taking repressive actions, sanctioning violations of legislation needs to be improved. The number of fines imposed is insignificant (for instance 3 sanctions in Fier in relation to over 500 inspections) compared to the overall number of inspection visits carried out, and compared to the difficulties encountered in high-risk sectors to comply with basic labour legislation.
26. The legal requirement of demanding a 7% advance to process collection of fines is a strong deterrent for labour inspectorates to enforce labour legislation, as there is no mode of reimbursement and, as the estimated amount to be advanced has to be

forecasted and budgeted in advance, although the budget of the labour inspectorate is already tight.

27. The notification and confirmation of a labour inspectors' decision by the general inspector to suspend the economic activity within 48 hours could, in the particular case, be too long and not feasible as the general inspector is supposed to examine the case on his own.

Social dialogue and labour inspection and social partners

28. There is no real knowledge of the labour inspection role for social partners. Also, owing to the lack of development of the social dialogue at the central and decentralized level, no tripartite structures exist to deal with subjects related with labour inspection matters. There is no real involvement of workers and employers in compliance matters. Additionally, the exchange of information or the participation in discussion on priorities and targets, is rare or inexistent.

Recommendations

General recommendations

1. Albania has ratified Convention No. 129 and no inspections are done in the rural sector. It could be useful to select a region and some sectors, to develop a special campaign with the taxation offices, sanitary inspection and other authorities to establish a working method, and apply the Convention.
2. Similar specific audits and actions can be taken in relation to a specific priority sector, such as fishing.

ILO suggestion: Establish a working group under the supervision of a consultant to develop and carry out a pilot exercise (Norwegian funds) with a view to increasing/extending coverage in the rural sector. The present audit could be expanded to a specific sector such as fishing.

3. A working group should settle at the central level to rationalize the structure at the central level, defining the real function and limiting the number of administrative tasks to be fulfilled by the inspectors.

ILO suggestion: Establish a working group under the supervision of a consultant to define a logical structure and to simplify procedures and formats of labour inspection, also to improve the use of information among the different Directorates of the central authority. (Norwegian funds)

Structure and organization

4. Budget support at the central State level for increasing the number of staff and some minimum physical (buildings) support are necessary. Tools, vehicles, computers and technical support means are the minimum requirements for effectiveness of labour inspection.
5. The Ministry should take steps to improve the number of inspectors at the central and territorial level and provide better tools and support structures (see below). Increasing both human (technical and administrative support, at all levels) and material resources

is essential in order to enhance the number and quality of inspections. Transport services or reimbursement of costs should be provided in all offices, as well as office equipment such as computers and other office amenities (fax machines). This is an urgent need.

6. As illegal work is becoming a major challenge, some multidisciplinary pilot activities could be undertaken.

ILO suggestion: A multidisciplinary programme based on other European experiences can be established to deal with new challenges, this should have on board taxation and social insurance inspectorates.

Human resource and career development

7. The successful implementation of a modern system of labour inspection will require determined HRD efforts to rationalize and strengthen the labour inspection system and career. Vacancies need to be filled quickly; the government should provide and establish a clear recruitment system and also a description of the post to be filled.
8. Aside from the need for appropriate qualifications and training of newly-recruited officials in the inspection services, it is also necessary to train existing officials, including refresher, on-the-job (in-service) or specialist training. A general and national training plan should be established, and their sustainability ensured.
9. In addition to the concern regarding staff vacancies at the technical level, a serious problem is poor motivation due to low salaries and limited career prospects. Personnel policies need to be redesigned to ensure that inspectors do not end their careers in the same grade. There is a need to establish performance appraisals to motivate high performers; more stringent entry qualifications and requirements (including examinations) for the recruitment of new officials, should be put in place. Managers need to be trained to use the new performance appraisal system and ensure that it is used to access training needs as well.

ILO suggestion: These activities could be planned and developed with ILO support and in the framework of a technical cooperation project. DIALOGUE is working with the Turin Centre to produce a new training programme (introduction programme plus an advanced course) that could be used for this purpose.

Visits

10. Internal procedures should be improved, and inspection forms and procedures reviewed with a view to facilitating simplification and interdepartmental information exchange, and enhancing the value of inspection visits. Check lists should be drawn up for the use during inspections. Discretionary visit at the inspector's decision should be developed in a context of a plan.
11. The inspectorate should promote a national prevention culture for a safe and healthy working environment at all levels. This would require the use of all available means to increase general awareness, knowledge and understanding of hazards and risks in the workplace and how these may be prevented or minimized. Inspectors should receive better training in preventive culture and risk-assessment to enable them to monitor employers' compliance with the new requirements of the new OSH law.

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12. Illegal work should be controlled through visits in collaboration with tax inspection. (see recommendation 5 above)
 13. Before inspections take place, inspectors should check the following: files, records, location of the establishment, contact person, number of workers, previous violations, employers' general attitude, work accidents, complaint letters, trade union presence, etc. To facilitate the monitoring of non-compliance by sector and by locality, it is useful to establish a file and registry system. This will facilitate computerization in the future.

ILO suggestion: These activities could be planned and developed with ILO support and in the framework of the technical cooperation project.

Registries and work accident report

14. A simple and accessible enterprise register at the national level (for the entire administration) should be implemented for the whole country with IT support, making use of the existing registry at the Ministry of Finance. This registry should be accessible for the labour inspectorate, and a system should be put in place to use the information in the development of labour inspection. Forms and registration sheets related to the inspection in the framework of the national registry should be prepared and IT support at the national level should also be put in place for the labour inspectorate.
15. A national list, or schedule, of occupational diseases should be developed, based on existing ILO and EU models. A national-level register of occupational accidents and diseases should be established, based on a system of recording and notification of occupational accidents and diseases that is feasible for Albania. This could be based on the ILO's Code of Practice on recording and notification of occupational accidents and diseases (already in Albanian), and take into account the WHO guidance on basic occupational health services to ensure a better system of diagnosis.

ILO suggestion: These activities could be planned and developed with ILO support and in the framework of the technical cooperation project. In this respect, and concerning a national system of registering occupational accidents and diseases, such a system could be elaborated by a small tripartite working group, including representatives of the Ministry of Health and the Social Insurance Institute, or possibly through the national OSH Commission.

Sanctions and administrative procedures

16. The appeal to the regional or central commission should be designed as an inner administrative procedure as simple as possible, as it should serve as an inner administrative self-correcting mechanism before the procedure would be launched in front of an external judicial body. Experience in other European countries could be useful for developing the structure.

ILO suggestion: An international consultant works with the Ministry of labour to elaborate a proposal

17. As to the requirement to advance 7% of the fine amount for its enforcement, an agreement should be found to either abolish this requirement or reimburse the labour

inspectorate, for instance, through retaining a share of the fine collected for the labour inspectorate.

Cooperation with other partners

18. Awareness raising campaigns on the role of the labor inspectorate should be undertaken among the social partners. Leaflets and other media tools should be developed.
19. The institutional consideration of the subject of labour inspection at the National Labour Council could be an option to promote the involvement of the social partners in the role of labour inspection.

ILO suggestion: These awareness activities could be planned and developed with ILO support and in the framework of the technical cooperation project.

Action Plan

CONCLUSIONS RECOMMENDATIONS MINSITRY ACTIONS ILO ACTIONS

ANNEX I

Albania

Member from 1920 to 1967 and since 51 Conventions ratified (44 in 1991 force)

- C. 6** Night Work of Young Persons (Industry) Convention, 1919 (No. 6) 17.03.1932
- C. 11** Right of Association (Agriculture) Convention, 1921 (No. 11) 3.06.1957
- C. 16** Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) 3.06.1957
- C. 26** Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) 2.08.2001
- C. 29** Forced Labour Convention, 1930 (No. 29) 25.06.1957
- C. 52** Holidays with Pay Convention, 1936 (No. 52) 3.06.1957
- C. 77** Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) 3.06.1957
- C. 78** Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) 3.06.1957
- C. 81** Labour Inspection Convention, 1947 (No. 81) 18.08.2004
- C. 87** Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) 3.06.1957
- C. 88** Employment Service Convention, 1948 (No. 88) 7.01.2009 **NEW**
- C. 95** Protection of Wages Convention, 1949 (No. 95) 2.08.2001
Excluding Article 11 by virtue of the ratification of Convention No. 173 (acceptance of Part II)
- C. 97** Migration for Employment Convention (Revised), 1949 (No. 97) 2.03.2005
- C. 98** Right to Organise and Collective Bargaining Convention, 1949 (No. 98) 3.06.1957
- C. 100** Equal Remuneration Convention, 1951 (No. 100) 3.06.1957
- C. 102** Social Security (Minimum Standards) Convention, 1952 (No. 102) 18.01.2006
Has accepted Parts II to VI and VIII to X
- C. 105** Abolition of Forced Labour Convention, 1957 (No. 105) 27.02.1997
- C. 111** Discrimination (Employment and Occupation) Convention, 1958 (No. 111) 27.02.1997
- C. 122** Employment Policy Convention, 1964 (No. 122) 7.01.2009 **NEW**
- C. 129** Labour Inspection (Agriculture) Convention, 1969 11.10.2007

(No. 129)

Has accepted Article 5, paragraph 1(a) and (b)

C. 131 Minimum Wage Fixing Convention, 1970 (No. 131) 18.08.2004

C. 135 Workers' Representatives Convention, 1971 (No. 135) 18.08.2004

C. 138 Minimum Age Convention, 1973 (No. 138) 16.02.1998

Minimum age specified: 16 years

C. 141 Rural Workers' Organisations Convention, 1975 (No. 141) 18.08.2004

C. 143 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) 12.09.2006
Excluding Part II

C. 144 Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) 30.06.1999

C. 147 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) 12.12.2007
Has ratified the Protocol of 1996

C. 150 Labour Administration Convention, 1978 (No. 150) 24.07.2002

C. 151 Labour Relations (Public Service) Convention, 1978 (No. 151) 30.06.1999

C. 154 Collective Bargaining Convention, 1981 (No. 154) 24.07.2002

C. 155 Occupational Safety and Health Convention, 1981 (No. 155) 9.02.2004

Has ratified the Protocol of 2002

C. 156 Workers with Family Responsibilities Convention, 1981 (No. 156) 11.10.2007

C. 168 Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) 4.08.2006

Pursuant to Article 5 of the Convention, the Government has availed itself of the temporary exception provided for in Article 10 (4).

C. 171 Night Work Convention, 1990 (No. 171) 28.06.2004

C. 173 Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) 3.02.2005

Has accepted the obligations of Part II

C. 174 Prevention of Major Industrial Accidents Convention, 1993 (No. 174) 3.03.2003

C. 175 Part-Time Work Convention, 1994 (No. 175) 3.03.2003

C. 176 Safety and Health in Mines Convention, 1995 (No. 176) 3.03.2003

C. 177 Home Work Convention, 1996 (No. 177) 24.07.2002

C. 178 Labour Inspection (Seafarers) Convention, 1996 (No. 178) 24.07.2002

**C. 181 Private Employment Agencies Convention, 1997 30.06.1999
(No. 181)**

**C. 182 Worst Forms of Child Labour Convention, 1999 2.08.2001
(No. 182)**

C. 183 Maternity Protection Convention, 2000 (No. 183) 18.08.2004
Period of maternity leave: 365 calendar days

**C. 185 Seafarers' Identity Documents Convention 11.10.2007
(Revised), 2003 (No. 185)**

Denunciation

<u>C. 4</u>	Night Work (Women)	Convention,	1919	(No. 4)	17.03.1932
	Denounced on 11.08.1964				
<u>C. 21</u>	Inspection of Emigrants	Convention,	1926	(No. 21)	17.03.1932
	Denounced on 30.06.1999				

Denunciation (as a result of the ratification of Convention No. 138)

<u>C. 5</u>	Minimum Age (Industry)	Convention,	1919	(No. 5)	17.03.1932
	Denounced on 16.02.1998				
<u>C. 10</u>	Minimum Age (Agriculture)	Convention,	1921	(No. 10)	3.06.1957
	Denounced on 16.02.1998				
<u>C. 58</u>	Minimum Age (Sea)	Convention (Revised),	1936	(No. 58)	3.06.1957
	Denounced on 16.02.1998				
<u>C. 59</u>	Minimum Age (Industry)	Convention (Revised),	1937	(No. 59)	3.06.1957
	Denounced on 16.02.1998				
<u>C. 112</u>	Minimum Age (Fishermen)	Convention,	1959	(No. 112)	11.08.1964
	Denounced on 16.02.1998				