



International
Labour
Organization

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

**Committee of Experts on the Application
of Conventions and Recommendations**

General observation, publication 2020



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At its 2019 session (November–December), the Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted a General Observation on the application of the Labour Inspection Convention, 1947 (No. 81), and of the Labour Inspection (Agriculture) Convention, 1969 (No. 129). The text of this observation is reproduced below.

As part of the regular supervisory system on the application of ILO international labour standards, the CEACR is an independent body whose function is to provide an impartial and technical assessment of the application of these standards by ILO member States. The CEACR is composed of 20 experts, eminent jurists from different geographical regions, legal systems and cultures.

In addition to the comments directly addressed to Governments, the CEACR may decide to publish the so-called “general observations” on certain issues concerning the application of a convention.

General observation

GENERAL OBSERVATION ON LABOUR INSPECTION AND LABOUR INSPECTION IN AGRICULTURE

The Committee recalls that the 2019 ILO Centenary Declaration on the Future of Work underscores the importance of strengthening labour administration and inspection as a key aspect for further developing the ILO's human-centred approach to the future of work, an approach that places workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies.

The Committee reaffirms that labour inspection is a vital public function. It is at the core of promoting and enforcing decent working conditions and respect for fundamental principles and rights at work. Effective labour inspection systems are also integral to achieving the 2030 Sustainable Development Goals in the coming years, thereby contributing significantly to social cohesion. Labour inspectorates are instrumental in the protection of labour rights and the promotion of safe and secure working environments for all workers,¹ and they play a major role with respect to the rule of law and ensuring equal access to justice for all.²

The Centenary Declaration highlights the changing patterns in the world of work. The Committee notes that many countries have implemented or are currently planning labour inspection reforms, in order to modernize the inspectorate and to address these transformative changes. Such reforms may take place within wider labour administration reorganizations or general inspection reforms that cover all state monitoring bodies; they may also be aimed at optimizing resources or minimizing the risk of corruption.

The Committee emphasizes that a modern, well-designed and risk-based approach to labour inspection planning is perfectly compatible with the Labour Inspection Convention, 1947 (No. 81), as well as the Labour Inspection (Agriculture) Convention, 1969 (No. 129). Indeed, the Committee observes that compliance with

¹ Goal 8, target 8.8.

² Goal 16, target 16.3.

both labour inspection Conventions is an important prerequisite for a modernization initiative to be effective. Accordingly, it urges governments to ensure that any reform measures be implemented in a manner that is in full conformity with ratified international labour Conventions.

The use of data-driven strategic planning as a basis for proactive and targeted interventions, coupled with the regular evaluation of institutional performance and impact, are important methods for achieving effective enforcement and sustained compliance. Labour inspectorates across all regions are making innovative use of online, mobile and networking approaches to expand their reach and accessibility. Information technology tools have also enabled significant improvements with respect to the capacity of inspectorates to collect, analyse and publish data. Further, modern inspectorates play a key role in addressing new and emerging risks in the workplace, through the promotion of a culture of prevention. Collaboration between inspectors and duly qualified technical experts and specialists³ is especially important to ensure workers' protection against occupational hazards.

The Committee recalls that governments may avail themselves of the technical assistance of the ILO in this regard. The Office can assist member States in various ways: through assessing the legal and institutional framework of labour inspectorates and recommending how to improve performance; by supporting the development of strategic plans for achieving compliance; by suggesting better uses of technology; by assisting in the domain of data collection and statistics; and by building the capacities of labour inspection staff.

However, along with these positive developments and the potential for further progress, the Committee expresses *concern* that a number of member States that have ratified one or both labour inspection Conventions have carried out reforms that substantially undermine the inherent functioning of labour inspection systems, contrary to the provisions of those Conventions.⁴ The Committee has been made aware of these reforms in the course of its

³ As required by Article 9 of Convention No. 81 and Article 11 of Convention No. 129.

⁴ The Committee observes that this trend has been most notable in Eastern Europe and Central Asia, but there are examples in other regions as well.

examination of reports from governments and observations from workers' and employers' organizations.⁵ The reforms often arise in the framework of broader revisions of state inspection approaches that cover many inspection bodies. With respect to labour inspection, the reforms include:

- moratoria on labour inspections,⁶ which the Committee has repeatedly emphasized constitutes a serious violation of Conventions Nos 81 and 129;
- requiring by law prior notification to employers of an inspection visit or significant restrictions on the undertaking of unannounced inspections (contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129, concerning empowering labour inspectors with proper credentials to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection);
- establishing a requirement to obtain consent for inspections from other governmental agencies (contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129);
- limiting the lawful scope of inspections to certain subjects or to pre-established checklists and establishing strict limits for the maximum duration of inspections (which raise issues with respect to Article 16 of Convention No. 81 and Article 21 of Convention No. 129 concerning the inspection of workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions);
- significantly reducing the number of labour inspections undertaken, limiting by law the possible frequency of inspections, or exempting a significant portion of enterprises from inspections, such as new enterprises (all of which raise issues of conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129);

⁵ Under article 22 and article 23 of the ILO Constitution, respectively.

⁶ Suspension of the undertaking of labour inspection visits for a period of time.

- substantially lowering the number of labour inspectors and the resources allocated to them, making it difficult or impossible to secure the effective discharge of duties of the inspectorate (which raises issues of conformity with Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129);
- assigning additional duties to labour inspectors that interfere with the effective discharge of their primary duties or prejudice their authority and impartiality as inspectors (contrary to Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129); and
- weakening the role and coherence of the central authority by processes of decentralization and distribution of the labour inspection services and functions among different authorities (which raises issues of conformity with Article 4 of Convention No. 81 and Article 7 of Convention No. 129).

The Committee recalls that it has systematically urged governments to remove these restrictions, with a view to achieving conformity with Convention No. 81 (and Convention No. 129, where ratified). It also notes that the Office has provided technical assistance to several countries in this regard.

The Committee *regrets* that many of the limitations on labour inspection listed above were enacted following policy advice from international institutions that was aimed at improving the national investment climate, as part of reforms covering all state inspections. In this regard, it recalls the possibility of excluding the labour inspectorate from broad state inspection reform, recognizing the importance of labour inspection systems for effective governance and their role in redressing imperfections in labour market imbalances. Further, the Committee calls upon governments to ensure that the implementation of policy and legislative advice received is entirely consistent with the application of ratified international labour Conventions.

The Centenary Declaration urges the ILO to intensify its engagement and cooperation within the multilateral system with a view to strengthening policy coherence. The Declaration emphasizes the strong, complex and crucial links between social, trade, financial, economic and environmental policies, and states that the ILO must take an important role in the multilateral system by reinforcing its

cooperation and developing institutional arrangements with other organizations in pursuit of its human-centred approach to the future of work.

In this framework of multilateralism, the Committee encourages the Office to deepen its dialogue with the relevant international organizations, in particular international and regional financial institutions, in order to ensure that all advice related to inspection reform is in conformity with Conventions Nos 81 and 129. The Committee recalls the ILO's ongoing collaboration with international financial institutions on programmes aimed at strengthening compliance with ILO core labour standards and national legislation. Given this collaboration and commitment, the Committee expresses the firm hope that intensified engagement by the ILO will contribute to further policy coherence on the importance of effective labour inspection systems.