Fifth item on the agenda

Report of the Director-General

Sixth Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Tunisia of the Labour Inspection Convention, 1947 (No. 81)

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1. Introduction

1. By a communication received on 5 March 2020, the Union of Labour Inspectors made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by the Government of Tunisia of the Labour Inspection Convention, 1947 (No. 81), ratified by Tunisia on 15 May 1957. The Convention remains in force in the country.

2. The provisions of the ILO Constitution concerning the submission of representations are as follows:

   **Article 24**  
   **Representations of non-observance of Conventions**
   In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

   **Article 25**  
   **Publication of representation**
   If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

3. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, as revised by the Governing Body at its 291st Session (November 2004), the Director-General acknowledged receipt of the representation, informed the Government of Tunisia and brought it before the Officers of the Governing Body.

4. At its 340th Session (November 2020), the Governing Body decided that the representation was receivable and set up a committee to examine it. The Committee is composed of Mr Didier Sewa (Government member, Niger), Mr Diop (Employer member, Senegal) and Ms El Amri (Worker member, Morocco).

5. The Government of Tunisia submitted its observations concerning the representation in a communication received by the Office on 1 October 2020, and sent further information in a communication received by the Office on 4 January 2021.

6. The representation was not submitted using the electronic form for the submission of a representation and the parties have not demonstrated willingness to engage in voluntary conciliation at the national level.

7. The Committee met virtually on 3 and 16 May to examine the representation and adopt its report.
II. Examination of the representation

A. The complainant’s allegations

8. In its representation, the complainant organization alleges that the labour inspectorate is experiencing considerable shortages of financial, human and material resources, constituting non-observance of Articles 6, 10 and 11 of Convention No. 81. The trade union also presents allegations concerning the establishment of the General Committee for Labour and Industrial Relations.

9. With regard to remuneration, the complainant organization alleges that labour inspectors do not earn sufficient remuneration to cover their expenses. In particular, the complainant organization states that the labour inspectorate is the lowest paid body in the public service and that other inspectors, such as controllers at the National Social Security Fund (CNSS) and financial services inspectors, earn salaries that are 20 to 30 per cent higher. The trade union refers in this respect to the departure of 50 labour inspectors since 2011 for other authorities to earn higher salaries. It also states that a decree concerning the remuneration system for members of the General Committee for Labour Inspection and Administration of Labour Disputes was not published in the country’s official journal.

10. Regarding human resources, the Union of Labour Inspectors alleges that the number of labour inspectors has considerably fallen since 2011 (over 500 in 2011 compared to 337 in 2020), and that the Government and the Ministry of Social Affairs have not recruited new inspectors in the regional divisions and local units. In this respect, the complainant organization states that many regions are understaffed, despite the high number of enterprises and workers in these regions. The trade union also deplores the lack of a human resources policy to determine staffing needs in respect of labour inspectors, despite a memorandum of understanding concluded with the Minister of Social Affairs in 2019.

11. Regarding material resources, the complainant organization alleges that labour inspectors do not have decent working conditions. The Union of Labour Inspectors mentions in particular that many premises are dilapidated and poorly maintained. The Union of Labour Inspectors refers specifically to the condition of some premises in the division of Kef, which it describes as being unsanitary, uncomfortable and representing an imminent danger to the lives of labour inspectors. The complainant organization also considers the number of vehicles to be insufficient, which pushes the labour inspectors to use their own cars without receiving any compensation, in violation of Article 11(2) of the Convention.

12. Furthermore, the complainant organization states that the restructuring of the labour inspection system and the establishment of the General Committee for Labour and Industrial Relations by the Ministry of Social Affairs, by way of the publication of Government Decree No. 2019-340 of 21 March 2019 concerning the organization of the Ministry of Social Affairs (hereinafter “Government Decree No. 2019-340”), presents a risk for the independence of the labour inspectorate. The trade union considers that this body employs public officials, such as social workers and public service advisers, who have neither the training required nor the skills necessary to work as labour inspectors. The complainant organization states that this Government Decree was adopted without its input.
B. The Government's reply

13. In its reply received on 1 October 2020, the Government refers to two decrees relevant to the issue of the remuneration of labour inspectors:

(i) Government Decree No. 2020-635 concerning the remuneration system for members of the General Committee for Labour Inspection and Administration of Labour Disputes at the Ministry of Social Affairs (hereinafter “Government Decree No. 2020-635”);

(ii) Government Decree No. 2019-1133 of 12 December 2019, granting the second and third instalments of the salary increase for public officials, local authorities and public administrative establishment, and setting their levels (hereinafter “Government Decree No. 2019-1133”).

14. The Government also mentions an agreement concluded in 2017 between the Ministry and the complainant organization concerning the remuneration system for labour inspectors. Furthermore, the Government indicates that the Ministry arranges meetings with the Union of Labour Inspectors to examine their concerns and problems, with the last one having been held in June 2020.

15. Concerning the number of labour inspectors, the Government explains that a regulatory requirement relating to the necessary qualification of candidates for external competitions constituted an obstacle to the recruitment of new labour inspectors for years. According to the Government, this requirement restricts the participation of holders of certain diplomas and graduates of the National Institute of Labour and Social Studies (INTES) in external competitions, and a draft decree has been prepared to amend it. The Government states furthermore that the issue of the recruitment of labour inspectors was taken into account in the preparation of the budget of the Ministry of Social Affairs for 2021.

16. With regard to the material resources of labour inspectors, the Government stresses that the allocation of the budget to the various bodies at the Ministry of Social Affairs is done according to a principle of prioritization between the needs of each directorate and the Ministry's resources. The economic fabric and the number of inspectors in each region are also considered. The Government indicates in particular that the budget for labour inspection rose from 10,085,000 Tunisian dinars in 2015 (64 per cent of the labour and industrial relations programme funds) to 16,889,075 dinars in 2020 (74 per cent of the funds from the same programme). According to the Government, these funds were allocated to various expenses, including the purchase of multimedia devices and equipment, and cars. Furthermore, the Government states that it was agreed, at a meeting with the union in June 2020, to speed up the fitting out, maintenance and equipping of the labour inspection divisions, and that the Ministry was preparing a programme to that effect.

17. Lastly, regarding the establishment of the General Committee for Labour and Industrial Relations, the Government indicates that this General Committee places the various structures responsible for labour issues under a central authority, while separating supervisory and conciliation work. The General Committee thus comprises: (i) the Directorate General for Labour Inspection; (ii) the Directorate General for Labour Legislation, Collective Bargaining and Wages; and (iii) the Directorate General for the Promotion of Labour Relations. According to the Government, this structure avoids other tasks interfering with the effective discharge of

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1 Article 18 of Decree No. 2014-2861 of 15 July 2014, establishing the special status of members of the General Committee for Labour Inspection and Administration of Labour Disputes at the Ministry of Social Affairs.
the main duties of labour inspectors. Furthermore, the Government indicates that it has been agreed to revise article 16 of Government Decree No. 2019-340, in order to review the Ministry's organizational chart in the framework of a joint committee with the Union of Labour Inspectors.

### III. The Committee's conclusions

18. The Committee's findings are based on its review of the allegations presented by the complainant organization and the reply provided by the Government.

19. The Committee proceeds with the examination of the questions raised in the following order: (i) the conditions of service (remuneration) of labour inspectors (Article 6); (ii) the number of labour inspectors (Article 10); (iii) the premises and transport facilities provided to labour inspectors (Article 11); and (iv) the impact of the restructuring of the Ministry of Social Affairs and the establishment of the General Committee for Labour and Industrial Relations on labour inspection (Articles 4 and 7).

#### A. Conditions of service (remuneration) of labour inspectors (Article 6)

20. The Committee notes that, according to the complainant organization, labour inspectors do not earn sufficient remuneration to cover their expenses and the labour inspectorate is the lowest paid body in the public service. The complainant organization states, in particular, that there is pay discrimination between the labour inspectorate and the other supervisory bodies. Furthermore, the Committee notes that, according to the complainant organization, 50 inspectors have left for other authorities since 2011 to earn higher salaries.

21. In its reply, the Government refers to two decrees relating to the remuneration of labour inspectors: (i) Government Decree No. 2020-635; and (ii) Government Decree No. 2019-1133. Moreover, the Government refers to an agreement concluded in 2017 between the Ministry and the complainant organization concerning the remuneration system for labour inspectors. A copy of this agreement was not sent with the Government's reply.

22. Nevertheless, the Committee notes that the Government states in its reply that it recognizes the “need to improve the conditions of work of labour inspectors and to encourage them to continue to work in the same spirit of dedication and responsibility”. In this respect, the Government indicates that a series of work sessions have already been held with the complainant organization to examine their concerns and discuss their problems.

23. The Committee does not have the necessary information to compare the salaries of labour inspectors with those of other public supervisory officials. In these circumstances, and while taking due note of the measures already taken to improve the situation, the Committee recalls the importance of the principles of stability and independence provided in Article 6 for the application of the Convention. It requests the Government to pursue its efforts to ensure that the conditions of service of labour inspectors, and in particular those linked to their remuneration, assure them stability of employment and make them

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2 Government Decree No. 2020-635 concerns specific pecuniary allowances and Government Decree No. 2019-1133 concerns an increase in salary for public officials, local authorities and public administrative establishments, including labour inspectors.

3 A copy of this agreement was not sent with the Government's reply.
independent of changes of government and of any improper external influences. The Committee requests the Government to include up-to-date and comprehensive information concerning the remuneration of labour inspectors in its next report to the Committee of Experts on the Application of Conventions and Recommendations (hereinafter the “Committee of Experts”), which is due on 1 September 2023, including the texts and agreements in force on the subject and information on the remuneration earned by officials performing similar supervisory duties.

B. Number of labour inspectors (Article 10)

24. The Committee notes that, according to the complainant organization, many regions are understaffed and that there is no human resources policy to determine staffing needs in respect of labour inspectors, despite a memorandum of understanding concluded with the Minister of Social Affairs in 2019.

25. The Committee notes that, according to the Government:

(i) a regulatory requirement relating to the necessary qualification of candidates for external competitions constituted an obstacle to the recruitment of new labour inspectors for years;

(ii) this requirement restricts the participation of holders of certain diplomas and graduates of the National Institute of Labour and Social Studies (INTES) in external competitions, and a draft decree has been prepared to amend it;

(iii) the issue of the recruitment of labour inspectors was considered in the preparation of the budget of the Ministry of Social Affairs for 2021.

26. The Committee notes the adoption of the Order of the Minister of Social Affairs of 13 April 2021 establishing the procedure for the organization of an open competition based on tests for the recruitment of labour inspectors (hereinafter “the Order of 13 April 2021”). The Committee also notes that, according to the complainant organization, the number of labour inspectors has fallen considerably since 2011 (over 500 in 2011 compared to 337 in 2020). The Committee recalls that Article 10 of Convention No. 81 does not stipulate a specific number of labour inspectors to meet the requirements of the Convention. Article 10 nevertheless requires that the number of labour inspectors “shall be sufficient to secure the effective discharge of the duties of the inspectorate”, and that this number shall be determined with due regard for the elements set forth in Article 10(a)–(c). The Committee hopes that the measures that the Government indicates it wishes to take will be taken in the very near future and will ensure the necessary number of inspectors. The Committee invites the Government to provide up-to-date and comprehensive information to the Committee of Experts in its next report, which is due on 1 September 2023, on the application of these measures, including on how the Order of 13 April 2021 is affecting the recruitment of new inspectors, and information on the number of labour inspectors.

C. Premises and transport facilities provided to labour inspectors (Article 11)

27. The Committee notes that, according to the complainant’s allegations, there has been a violation of Article 11 of the Convention, because inspectors do not have decent working conditions, with many premises being dilapidated and poorly maintained. Furthermore, according to the complainant organization, labour inspectors face reactions of contempt or
disrespect as a result of their working conditions, which undermines their authority. In this regard, the complainant organization alleges that there is an insufficient number of vehicles available for labour inspectors, with a total of 70 vehicles for all local divisions and units, half of which are non-operational. The complainant organization also alleges that labour inspectors use their own vehicles without compensation or fuel costs.

28. The Government indicates in turn that the Ministry of Social Affairs applies fair and equal treatment to the various structures and bodies under its supervision, and that the funds for labour inspection were allocated to expenditure relating to the labour inspectorate’s material means. Furthermore, the Government indicates that there was an increase in the budget for labour inspection (from 10,085,000 dinars in 2015 to 16,889,075 dinars in 2020). According to the Government, these funds were allocated to various expenses, including the purchase of multimedia devices and equipment, and cars.

29. In these circumstances, and taking due note of the measures already taken by the Government (increase in the budget, purchase of vehicles, purchase of multimedia equipment, etc.), the Committee trusts that the Government will pursue its efforts to ensure that:

(a) local labour inspection offices are equipped in accordance with the requirements of the service, and are accessible to all persons concerned, in accordance with Article 11(1)(a) of the Convention;
(b) the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist are provided to labour inspectors, in accordance with Article 11(1)(b);
(c) labour inspectors are reimbursed for any travelling and incidental expenses which may be necessary for the performance of their duties, in accordance with Article 11(2).

30. The Committee invites the Government to provide up-to-date and comprehensive information to the Committee of Experts in its next report, which is due on 1 September 2023, concerning the material resources made available to labour inspectors.

D. Restructuring of the Ministry of Social Affairs and establishment of the General Committee for Labour and Industrial Relations (Articles 4 and 7)

31. The Committee recalls that Article 4 of Convention No. 81 provides that:

1. So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.

32. Article 7 of Convention No. 81 also provides that:

1. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.
2. The means of ascertaining such qualifications shall be determined by the competent authority.
3. Labour inspectors shall be adequately trained for the performance of their duties.
33. The Committee notes that, according to the complainant organization, the labour inspection system was restructured and a General Committee for Labour and Industrial Relations was established following the publication of Government Decree No. 2019-340. The Union of Labour Inspectors alleges in particular that the labour inspection system cannot function in accordance with Convention No. 81 if the General Committee is present, as it employs officials who do not have the training and skills necessary to work as labour inspectors. The complainant organization states that this Government Decree was adopted without its input.

34. The Committee notes that the Government in turn provides information concerning the new structure established by Decree No. 2019-340, indicating that the General Committee for Labour and Industrial Relations is comprised of three different directorates: (i) the Directorate General for Labour Inspection; (ii) the Directorate General for Labour Legislation, Collective Bargaining and Wages; and (iii) the Directorate General for the Promotion of Labour Relations. The Government also indicates that it has been agreed to revise article 16 of Government Decree No. 2019-340, in order to review the Ministry’s organizational chart in the framework of a joint committee with the Union of Labour Inspectors.

35. Furthermore, the Government indicates that the General Committee for Labour and Industrial Relations places the various structures responsible for labour issues under a central authority, but that there is no overlap between the functions of the labour inspection system and those of other directorates under the supervision of the General Committee for Labour and Industrial Relations. As such, according to the Government, the purpose of this structure is not to interfere with the independence of the labour inspectors or to overburden them with new duties, but rather to better organize work, specifically by separating supervisory and conciliation work. According to the Government, this separation would prevent any other tasks assigned to labour inspectors from interfering with their main duties.

36. The Committee observes that the measures taken to ensure that there is no overlap between supervisory and other work, such as conciliation, have not been specified by the Government. The Committee notes that the wording of Article 4 of Convention No. 81 provides countries with a degree of flexibility and does not require a specific structure for the labour inspection system. The Committee also notes that, while the complainant organization expresses its concerns regarding the qualification and training of officials under the supervision of the General Committee for Labour and Industrial Relations, it does not indicate the manner in which these officials are assigned to the labour inspection system. In these circumstances, and on the basis of the information provided, the Committee considers that the restructuring of the Ministry of Social Affairs and the establishment of the General Committee for Labour and Industrial Relations do not in themselves constitute a violation of Articles 4 and 7 of Convention No. 81. The Committee nevertheless recalls the importance of the independence of the labour inspectorate, and the principle that any further duties which may be entrusted to labour inspectors, such as conciliation, shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority or impartiality which are necessary to inspectors. Therefore, the Committee requests the Government to provide up-to-date and comprehensive information to the Committee of Experts in its next report, which is due on 1 September 2023, on the new structure of the labour inspection system, so that the Committee of Experts can examine whether the relevant measures are in conformity with the provisions of the Convention. The Committee requests the Government to include, in particular, information on measures to ensure that there is no overlap between the supervisory functions of the labour inspectorate and work such as conciliation, on the functions of each directorate under the supervision of the General
Committee for Labour and Industrial Relations, and on the qualifications and training required for the officials responsible for conducting labour inspections under this new structure.

37. In view of the different allegations and the measures that the Government indicates it wishes to take, the Committee also invites the Government to explore, in consultation with the social partners, ways of strengthening the labour inspection system and to avail itself of the technical assistance of the International Labour Office in this process.

IV. The Committee’s recommendations

38. In the light of the conclusions contained in paragraphs 23, 26, 29, 30, 36 and 37 above on the issues raised in the representation, the Committee recommends that the Governing Body:

(a) approve the present report;

(b) invite the Government to take, in light of the conclusions above and in consultation with the social partners, all necessary measures to ensure the effective application of Articles 6, 10 and 11 of the Labour Inspection Convention, 1947 (No. 81);

(c) invite the Government to include in its next report to the Committee of Experts on the Application of Conventions and Recommendations information related to its conclusions;

(d) make this report publicly available and close the representation procedure.

Geneva, 22 May 2023

(Signed) Lasse Didier Sewa,
Government member

Hamidou Diop,
Employment member

Amal El Amri,
Worker member