



A mapping report on Labour Inspection Services in 15 European countries

A SYNDEX report for the European Federation of Public Service
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Preface

Labour inspectors are essential to the enforcement of employees' rights, the prevention of abuses by unscrupulous employers and the promotion of economic and social development. They help make decent work a reality and provide pointers of socio-economic trends in society.

Written by a former labour inspector in Spain¹, this report provides a detailed account of how labour inspectorates operate in 15 European countries, how they are organised, the main issues they deal with, whether their remit encompasses or not the public sector, the main problems they are faced with, and identifies areas for improvement. As we campaign against unprecedented, imposed cuts or freezes of public sector jobs and wages, the report also looks at the effects of austerity measures on labour administrations.

The ILO Convention 81 in force since 1950 provides a common framework and standards for labour inspectorates across the world. In the surveyed countries, ensuring compliance with health and safety at work and other employment conditions is a common task of labour inspectors. There are however country differences with regard to whether restructuring, social security contributions or undeclared work are part of the remit of labour inspectors.

With this word of caution that makes cross country comparisons difficult, the number of labour inspectors is most often than not deemed insufficient. This puts at risk the very efficiency of their work which, in the face of globalisation and deregulation of the labour market, has become more complex and demanding. By extension this is the very safety of society at large that is put at risk. It also begs the question of whether ILO Convention 81 that calls, amongst others, for a sufficient number of labour inspectors is fully applied with.

Staff shortages are further compounded by the impact of the crisis adding more work to an already overburdened public administration. In 5 of the surveyed countries, the resources and numbers of labour inspectorates have been further reduced. Yet as a result of the crisis, the workload has increased with more restructuring cases to deal with.

But not all countries have opted for staff cuts, some have even increased the number of labour inspectors which shows that another route is possible.

There are other challenges such as the limited policy-making capacity of labour ministries, also due to a lack of resources and/or political will, the limited access to reliable data or inadequate information technology, insufficient or inappropriate training on different national labour legislations or companies' financial and economic strategies to cope with the effects of a deregulated globalization. The report also strongly highlights the lack of time to invest more in prevention, compounded by more bureaucratisation and complex rules. In some countries, the lack of a central authority can be an obstacle to homogenous compliance with labour law and rights.

The ILO has recently expressed concerns about the growing role of the private sector in labour inspectorates as a threat to the sound principles of public sector independence and neutrality. Whilst the report does not find involvement of the private sector in the countries covered, the ongoing austerity measures may well exacerbate this risk.

I hope this report will be useful to our affiliates. The report makes it clear that the case for labour inspectors must be better made and as public service trade unions, representing labour inspectors, we are the best placed to do so.

It will certainly help us in our dealings with the EU institutions to argue for better and safer workplaces and more investment in labour inspectorates, not less. Better administrative

¹ The report was drafted in the course of 2011

cooperation between and within countries and in cooperation with social partners is crucial for a better application of EU social standards which also require that the adequate resources be in place. An EU directive supporting the role of labour inspectors and establishing European standards should be considered, in conjunction with gaining a trade union say in the discussions of the EU network of senior labour inspectors (SLIC).

A final point for future consideration, civil servants are not covered by labour inspectors in most of the countries surveyed, on the basis of the argument that the state cannot sanction itself. This also requires further reflection, especially as the civil service is subject to pay and job cuts or freezes.

I very much thank our affiliates who have taken the time to respond to the questionnaire to help prepare the report and review the findings. I also thank Ana Isabel Martinez Garcia for this useful piece of research. Last, I take this opportunity to extend my thanks to all staff members of labour inspectorates that are trying to do their best in extremely difficult times.

Carola Fischbach-Pyttel

EPSU General Secretary

Brussels, June 2012

A comparative overview of Labour Inspectorates

1. The international legal framework

The ILO Labour Inspection Convention 81 (and the convention 129 on Labour Inspection Agriculture) serves as a good international guide to common features of the service given its particularly high level of ratifications (135 for convention 81) including all countries where EPSU is represented with the exception of Georgia.

Benchmarks for effective labour inspection under this universal standard are:

- labour inspection should be organized as a system applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable;
- labour inspection should be placed under the supervision and control of a central authority so far as is compatible with the administrative practice of the country;
- it should ensure both educational and enforcement functions in relation to conditions of work (such as hours of work, wages, safety, health and welfare, the employment of children and young persons and other connected matters) and alert the competent authorities of any defects or abuses not covered by existing relevant legal provisions;
- inspectors must be public officials assured of the stability of employment and independent of changes of government and improper external influences;
- they must be recruited with the sole regard to their qualifications and they must be adequately trained for the performance of their duties;
- their number must be sufficient to secure the effective discharge of these duties in regard to, inter alia, the number, nature, size and situation of workplaces, the number of workers employed, and the number and complexity of the legal provisions to be enforced;
- they must be properly equipped with local offices and transport facilities and measurement material;
- they must be provided with proper credentials and be legally empowered;
- workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions;
- inspectors should supply information and advice to employers and workers on how to comply with the law;
- adequate penalties for violations of legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties must be provided for by national laws and regulations and must be effectively enforced;
- operative performance of the labour inspection system can be achieved through effective cooperation with other government services and private institutions engaged in labour protection as well as with employers and workers and their organizations.

The range of topics that labour inspectors may cover includes:

- promoting occupational safety and health including the prevention of accidents and diseases, welfare facilities;

- protection of income levels including checking wages/salaries records, overtime payments;
- checking records of working hours and overtime, holidays and rest periods including sick and maternity leave;
- promoting fundamental labour rights and anti-discrimination measures;
- accident investigation and work injury compensation;
- employment matters (from illegal employment, work permits to employment promotion, including vocational training programmes);
- social security contributions;
- employment of women, children and young persons and other workers with special needs;
- social dialogue and industrial relations issues and monitoring of collective agreements.

For further information:

<http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang--en/index.htm>

2. Organisation and remit of labour inspectorates

In most of the countries surveyed the labour inspectorates are part of the ministry for labour and/or social affairs. A main distinction is whether they are decentralized or come directly under the competence of central government administrations.

Belgium: the Labour Inspectorate is the responsibility of the Federal Public Service Employment, Labour and Social Dialogue Division; the LI is divided between several federal public services and also within the various services according to the scope of competences given to the different labour inspectors.

Czech Republic: the State Labour Inspection Office is under the supervision of the Ministry of Labour and Social Affairs; labour inspectors are divided according to their specialization: health and safety at work or labour relations and labour and working conditions.

Denmark: the Danish Working Environment Authority (DWEA) is the responsibility of the Ministry of Employment and it covers occupational health and safety issues.

France: the Labour Inspectorate is a generalist one under the supervision of the Ministry of Labour.

Germany: the Labour Inspectorate specialises in monitoring compliance with occupational health and safety regulations; responsibility for occupational health and safety held jointly by the OSH administrations of the sixteen regional governments in Germany and the accident insurance institutions ("*Berufsgenossenschaft*" (BGs)).

Greece: the Greek Labour Inspectorate Body (S.EP.E) comes under the Minister of Employment and Social Protection and has two sections: Social Labour Inspectorate Offices and Technical and Medical Labour Inspectorate Offices.

Hungary: the Labour Inspectorate (OMMF) is a central body coming under the Minister of Social and Labour Affairs.

Italy: the Labour Inspectorate is the responsibility of the Ministry of Labour and Social Policy and has two sections: labour inspectors (ispettore del lavoro) who deal with employment and labour issues and technical labour inspectors (ispettore tecnico) who specialize in occupational health and safety and prevention at the workplace.

Latvia: the Labour Inspectorate is an administrative institution supervised by the Ministry of Welfare.

Poland: the National Labour Inspectorate of Poland (PIP) is subordinated to the Lower Chamber of the Polish Parliament.

Romania: the Labour Inspectorate ("Inspectia Muncii") is under the supervision of the Minister of Labour, Social Solidarity and Family. One third of labour inspectors are responsible for issues related to occupational health and safety, while two thirds are responsible for issues related to work relations.

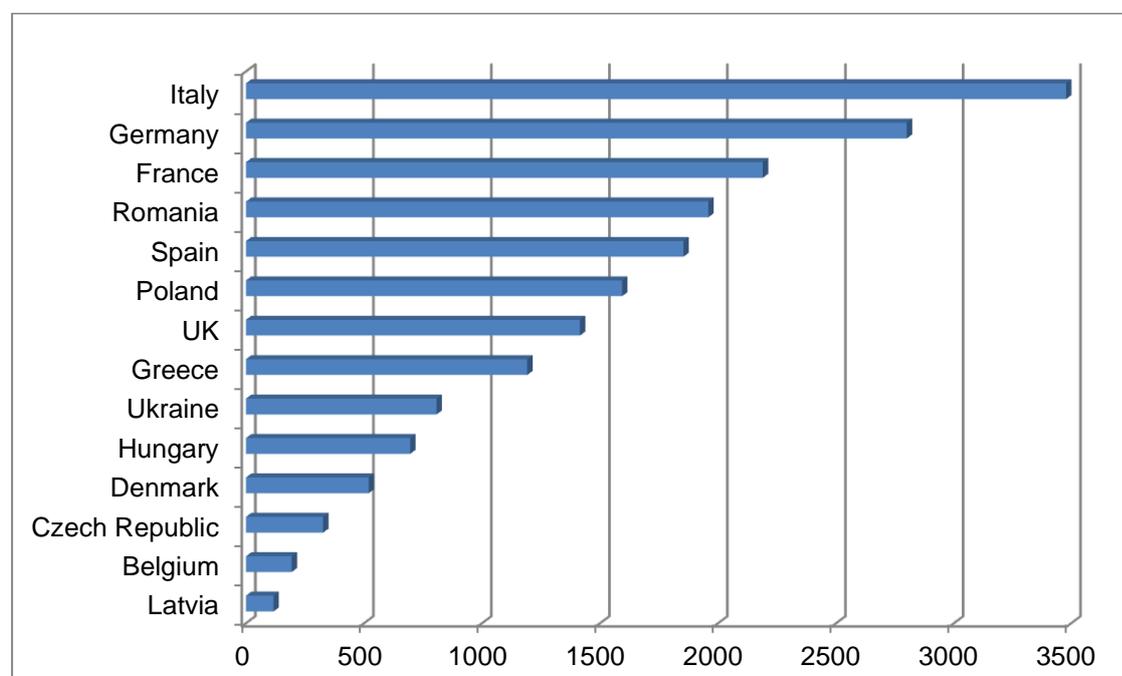
Russia: the Federal Labour Inspection (the "Rostrud") is supervised by the Ministry for Health and Social Development.

Spain: the Labour and Social Security Inspectorate (LSSI) is under the supervision of the Ministry of Labour. A major change took place in February 2010 when the functions and services of the Labour and Social Security Inspectorate were transferred to the government of Catalonia.

United Kingdom: there is a wide variety of public entities and organisations responsible for different labour issues in the UK but the main one is the Health and Safety Executive (HSE) which deals with occupational health and safety; the HSE is a non-departmental public body with Crown status, sponsored by the Department for Work and Pensions and accountable to its ministers.

Ukraine: the Labour Inspectorate, Gosnadzortrud, is part of the Ministry of Social Policy and directly subordinated to it.

Number of inspectors, 2009



Denmark, Greece and Hungary 2008 data (ILO)

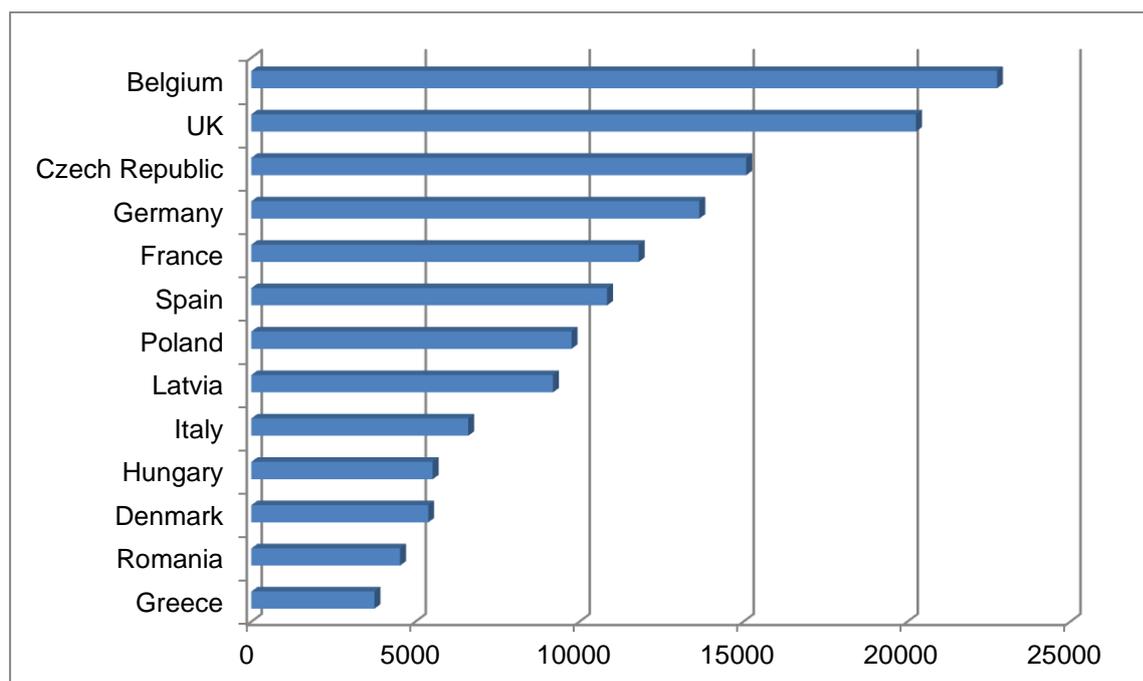
Belgium, only Health and safety inspectors

Ukraine, 2006 data ILO

Germany, non cross-checked data

Russia, data not available

Number of workers per labour inspector, Eurostat, 2009



Belgium, only H&S inspectors

Ukraine and Russia: data not available

3. Scope of competences

Labour Inspectorates (LI) can be considered either as providing a general service (i.e. having competences regarding the whole spectrum of laws and regulations applying to employment and working conditions) or as having a specific responsibility - usually occupational health and safety.

Labour Inspectorates in Denmark, Germany and the UK are responsible for checking compliance with occupational health and safety legislation.

However, in these cases, occupational health and safety covers a wide range of issues connected with health and safety, for instance, working time, working conditions of pregnant women etc.

Moreover, in countries where labour inspectors deal only with occupational health and safety issues there are other public institutions or organisations responsible for checking whether employers comply with their legal obligations towards workers; .

With regards to "general" labour inspectorates two main models co-exist in Europe:

- Some countries (Belgium, Czech Republic, Greece, Italy and Romania) have a single Labour Inspectorate but they have two categories of inspectors: those who deal with social and labour legislation and those responsible for occupational health and safety and working conditions.

An important issue with this type of organisation is the coordination between the different categories.

- In other countries (France, Hungary, Poland and Spain) there is no specific organisation of labour inspectors with regards to their day-to-day activity and they assume the whole spectrum of competences entitled by law.

An important issue in this type of organisation is the planning and programming of activities in order to establish clear priorities when carrying out inspections and to ensure important matters are not neglected.

General Labour Inspectorates' scope of competences covers, among others, the following issues:

- Employment;
- Undeclared work;
- Working time;
- Equal treatment between men and women;
- Wages and salaries;
- Working conditions;
- Restructuring measures (only in some countries, Spain, Belgium and France)
- Social Security (only in some countries like Italy, Spain and Ukraine)

	OHS	EMP	UND	WT	ET	W&S	SS	RM
Spain	✓	✓	✓	✓	✓	✓	✓	✓
Belgium	✓	✓	✓	✓	✓	✓		✓
France	✓	✓	✓	✓	✓	✓		✓
Italy	✓	✓	✓	✓	✓	✓	✓	
Czech Republic	✓	✓	✓	✓	✓	✓		
Greece	✓	✓	✓	✓	✓	✓		
Hungary	✓	✓	✓	✓	✓	✓		
Latvia	✓	✓	✓	✓	✓	✓		
Poland	✓	✓	✓	✓	✓	✓		
Romania	✓	✓	✓	✓	✓	✓		
Ukraine		✓		✓	✓	✓	✓	
Russia	✓	✓	✓	✓				
Denmark	✓							
Germany	✓							
UK	✓							

(EPSU)

OHS = occupational health and safety

EMP = employment

UND = undeclared work

WT = working time

ET = equal treatment

W&S = wages and salaries

SS = social security

RM = restructuring measures

4. The role of Labour Inspectors in the public sector

In all countries two types of workers are to be found:

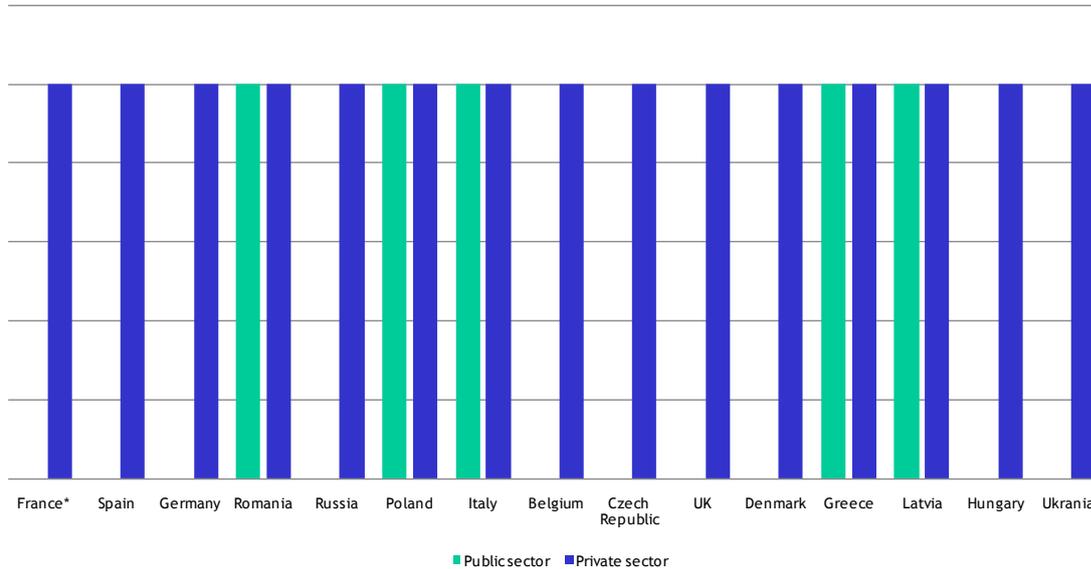
- Private sector workers (having a labour relationship with a private employer regulated by social legislation, collective bargaining and the individual employment contract)
- Civil servants (having an administrative relationship with a public administration, no matter its level (state, regional, local...))

In some countries, a third category exists: workers having a labour relationship with a public administration on a private labour contract.

In every country covered by the study, Labour Inspectors are entitled to intervene in the private sector in order to check compliance with social and labour legislation.

The situation is quite different when considering the protection of civil servants by the Labour Inspectors.

Scope of activity of labour inspectors



As shown in the graphic above our study found that it is only in Italy, Greece, Latvia, Poland and Romania, that labour inspectors are entitled to check the compliance with legislation no matter the relationship (public or private) binding the worker to his employer.

As for other countries, there is a wide range of situations:

- In France, labour inspectors are entitled to carry out inspections in some specific public services determined by law;
- In Spain, labour inspectors' scope of competences includes public administration whenever there is a employment contract between the Public Service and the employee (Public Administration considered to be a "private employer")
- However labour inspectors cannot impose administrative fines on a public administration ("an administration can not sanction itself")
- But in most cases there is no specific inspection body entitled to check the respect of legal obligations concerning civil servants. In general civil servants must address their claims or demands to administrative entities or organisms whenever they consider there is violation of their rights or working conditions.

5. Labour inspectors' rights

The study found that labour inspectors have almost the same rights when carrying out an inspection; in fact these rights are those established by the ILO Convention n°81, according to which, labour inspectors can:

- enter freely and without previous notice, at any hour of the day or night, any workplace liable to inspection;
- enter by day, any premises which they may have reasonable cause to believe to be liable to inspection;
- carry out any examination, test or enquiry which they may consider necessary in order to ascertain that the legal provisions are being strictly observed;

- interrogate, alone or in the presence of witnesses, the employer or the staff;
- require the production of any books, registers or other documents the maintenance of which is prescribed by national laws or regulations;
- take samples for purposes of analysis.

According to the ILO Convention n° 81 Labour inspectors are also given powers of injunction that can lead either to administrative measures and/or sanctions or to legal (civil or criminal) prosecutions whenever there is a violation or an infringement of the legislation applying to the control of labour inspectorates.

With regards to the powers of injunction two types of legal systems can be found:

An administrative system where labour inspectors are entitled to initiate an administrative procedure leading to the imposition of a fine (that is the case in almost all countries apart from France and the UK); and

A legal prosecution system where labour inspectors draft a report to be sent to the competent courts in order to start a legal prosecution process (that is the case in France).

In most of the countries in the study both systems co-exist and the decision as to whether to start an administrative procedure or a criminal one depends mainly on the gravity of the violation.

Moreover labour inspectors have a discretionary power to decide whether to start an administrative procedure or just to issue a warning allowing the employer a specified period in which to rectify matters (according to the prevention role of the labour inspectors).

Finally and in all countries labour inspectors can require immediate measures to be taken in the event of imminent danger to the safety and the health of workers and they can ask for all dangerous activities to be stopped immediately.

6. A main trend in Europe: modernisation and reorganisation of the Labour Inspectorates

For several years now international organisations have shown a particular interest in the role and effectiveness of labour inspection.

Since 2006, the ILO has supported a global strategy for the “modernisation and reinvigoration” of labour inspection:

- An ILO programme has been established to assist countries in promoting decent work by strengthening labour administration machinery, including labour inspection, to make them more effective. The strategy includes a number of activities at both global and national levels, such as helping member States to undertake audits of labour inspectorates, develop national action plans to enhance the effectiveness of labour inspection, and secure training for labour inspectors.

In June 2009 the ILO adopted the Global Jobs Pact in which the strengthening of labour administration is a core objective in the promotion of sound and efficient economic and social policies at both international and national levels:

- The Global Jobs Pact recognizes labour administration and inspection as “an important element in inclusive action on worker protection, social security, labour market policies and social dialogue” and as a key area of importance for responding to the crisis and promoting economic and social development.

Further to the adoption of the ILO Declaration on Social Justice for a Fair Globalization, in November 2009 the Governing Body approved a Plan of Action to achieve widespread ratification and effective implementation of the standards that are most significant from the viewpoint of governance, including Conventions N° 81 and 129.

During the 2010 International Labour Conference the Committee for the Recurrent Discussion on Employment mentioned in its Conclusions the need to strengthen the capacities of labour inspection services.

In April 2010, the G20 Labour and Employment Ministers stated that “reinvigorated efforts by labour ministries, labour inspectorates,... are needed in many countries to ensure that the crisis does not lead to violations or weakening of fundamental rights at work or national labour laws or to the exploitation of vulnerable segments of the workforce, including youth and migrants”.

In June 2010, the Governing Body of the ILO decided to place on the agenda of the 2011 Session of the International Labour Conference an item on labour administration and labour inspection.

Moreover ILO states that the labour inspectors’ work is directly linked to an ever-changing environment:

According to the ILO “Changes in the structure of labour markets and in employment relationships have led to sudden changes in the reorganization of labour inspectorates. In particular, labour inspectorates have to respond in a more efficient way by ensuring compliance through preventive measures, advice and the detection of labour law infractions”

“Many of these changes (subcontracting, outsourcing, increasing undeclared or illegal work) are linked to the emergence of new business models and modes of production, globalisation and increased labour migration, as well as technological advances”

“Nowadays, labour inspectorates perform their duties in a challenging environment involving important changes in the economic and social context, in industrial developments, in the organization of labour and employment relationship, in the social and political expectations, in technology and in the nature of work hazards”

In this context a number of European governments have decided to take measures in order to reorganise their Labour Inspectorates to increase their effectiveness and the subsequent protection of workers.

The main examples of this trend are:

- **Czech Republic:** in 2005 the government adopted the Labour Inspection Act, according to which a new institution – the State Labour Inspection Office – and eight regional inspectorates were created. The new office merged the Czech Work Safety Authority and its inspectorates (subsequently abolished) and the labour offices’ inspectorates.
- **Denmark:** the Working Environment Authority has undertaken a significant reorganisation since 2003 in order to increase its effectiveness.
- **France:** in 2006 the French government presented its plan to modernize and develop the Labour Inspectorate by increasing the number of labour inspectors by 700 by 2010; in 2009 the different labour inspection services merged to create a single body.
- **Italy:** in 2004 the government introduced a reform of labour inspection services aiming to improve coordination and information exchange between the various agencies, to emphasise the advisory and preventive role of labour inspectors and to strengthen the fight against undeclared work.
- **Latvia:** a new law on the State Labour Inspection was adopted in 2008.
- **Spain:** in 2004 a strategic plan was carried out to improve the national Labour and Social Security Inspectorate by increasing the number of inspectors, improving information systems and equipment and coordination with other areas of the administration. Furthermore, in 2009 a Labour Inspection Training School was created to establish and develop new and comprehensive training programmes.

7. Labour inspectors and trade unions

Trade union rights include mainly the right to create a trade union or join an existing one, the right to collective bargaining and the right to strike.

Labour inspectors, being almost all civil servants, are entitled to trade union rights but more specific information is scarce in most of the countries.

Usually Labour inspectors join, on an individual basis, trade unions that organise civil servants in general. But as labour inspectors represent a very small minority inside the Civil Service there are rarely any specific actions or campaigns regarding their demands or working conditions. The few examples include:

- In some countries, like Spain, there is a labour inspection trade union and consequently their demands are more audible; the trade union was very active during the crisis arguing against the “freeze” of salaries and it organised several strikes demanding a reinforcement of the labour inspection system.
- In Poland there is a legally constituted labour inspectors’ trade union but there is little information about their activities; recently, however, labour inspectors called for an update and amendments to the main labour laws.
- In Romania claims on behalf of labour inspectors are put forward by civil servants’ trade unions; the National Trade Union of Civil Servants (of which most of labour inspectors are members) recently expressed its concerns about the attitude of the press and some politicians towards labour inspectors, who are often blamed as being corrupt and dishonest.

In practice labour inspectors are “visible” mostly through their professional associations, although there is a limited amount of information available on their organisation, objectives and activities.

French labour inspectors’ associations are the main exception and they have been active both after the murder of two labour inspectors in 2004 and during the process of reorganisation of the whole labour administration system implemented by the government in 2009 and 2010.

8. Impact of the global economic crisis and national austerity plans

In the context of the global economic crisis and its significant impact on the labour market the responses of national governments have been different both with regards to the labour inspection staff and the scope of competences of labour inspectors.

8.1 Impact on staffing levels

Countries that have cut the number of labour inspectors

Government plans aimed at reducing public expenditure have sometimes affected Labour Inspectorates and as a result there have been cuts both in operational budgets and in the number of labour inspectors.

- **Germany:** the number of Labour inspectors has been steadily reduced through the non-replacement of those retiring but no direct relationship is made by the Länder between these reductions and the global crisis, although the link is clear.
- **Italy:** the total number of Labour inspectors (both social and health and safety inspectors) decreased from 3761 in 2007 to 3479 in 2009.
- **Latvia:** in December 2009 42 jobs were cut from the staff of the Labour Inspectorate with the number of labour inspectors reduced from 139 to 117; as a result several regional offices have been closed.

- **Romania:** in August 2009, the Government announced that the Labour Inspectorate and the Social Inspectorate would merge to create a new body with 20% fewer employees. In July 2010, the Government approved a new decision on the reorganization of the Ministry of Labour, Family and Social Protection; the major consequence of this decision was the reduction of Labour Inspection staff by an additional 4.5%.
- **UK:** the number of health and safety inspectors has increased steadily since 2008 (after the severe cuts that took place in 2006 and 2007), however, in 2010 the Health and Safety Executive saw its budget cut by 35% (in addition to a previous 28% cut in local government funding)

Countries that have increased the number of labour inspectors

Other governments have decided to strengthen their labour inspection services in order to intervene in a more efficient way in the labour market and to deal more effectively with new challenges .

- **France:** the number of labour inspectors was increased from 488 in 2007 to 767 in 2009 while the number of sub-inspectors rose from 1053 to 1423 in the same period.
- **Greece:** in 2009 the government introduced a new law increasing the number of labour inspectors as well as their incomes (in the form of a specific allowance) and strengthening their powers towards a greater effectiveness.
- **Poland:** 1 489 labour inspectors in 2009, up from 1 326 in 2007.
- **Spain:** 934 labour inspectors and 920 sub-inspectors in 2009, up from 854 and 875 respectively in 2007; but at the same time and as part of the national austerity plan the salaries and wages of all civil servants (including labour inspectors) were “frozen” in 2009-2010.

8.2 The scope of competences of labour inspectors

The effects of the crisis on the labour market have led some governments to restrict (in some cases on a temporary basis) the competences of labour inspections so as not to interfere with the development of the labour market; in contrast, other governments have strengthened their competences and activities so as to increase the protection of workers against labour law infringements, problems arising from companies in difficulty or facing bankruptcy.

- **Czech Republic:** adoption of the Employment Act and the fight against illegal labour.
- **Greece:** a new law in 2009 allowing labour inspectors to impose higher fines (up to € 50,000 per offence instead of €500) in order to induce companies to comply with labour laws. Moreover the Ministry of Labour has established anonymous public hotlines to record grievances giving workers a simplified way to report cases of labour infringements.
- **Hungary :** the Labour Inspection Act was amended in such a way that, in certain cases the national Labour Inspectorate no longer has the discretionary power to decide whether or not to impose a fine (if the labour inspectors discover a labour infringement mentioned in the act, they must sanction the employer).
- **Poland:** the monitoring the payment of salaries and implementation of working time regulations and agreements has been established as a priority in the national inspection plans; there is also an emphasis on the provision of training on occupational psychosocial risks and on conducting assessments of these specific risks jointly with employers and employees.

8.3 A common trend: more workplace inspections

The number of enterprises investigated by labour inspectors has increased since the beginning of the crisis, but there are different explanations for this and different consequences for the staff of labour inspectorates.

The impact of restructuring and collective redundancies

In some countries labour inspectorates are responsible for employment issues and as industrial restructuring processes have increased dramatically during the past two years so has the workload of labour inspectors.

- **France:** a significant increase in the number of requests for partial unemployment took place in 2009 and 2010.
- **Poland:** during the first half of 2009, an increased number of official complaints were reported to the National Labour Inspectorate (513 compared with 185 in 2008) regarding lay-offs for reasons unrelated to worker performance but related to company restructuring or liquidation.
- **Russia:** in 2010 the government mandated Rostrud with anti-crisis measures in the field of labour and employment.
- **Spain:** labour inspectors must give their advice on the validity of reasons given by employers for implementing collective layoffs.
 - The national labour inspection service estimates that in 2008 the number of collective redundancies increased by 234 % compared with 2007 and the number of inspections related to business closures increased by 300%; the increase was similar in 2009.

An increase in the number of labour inspectors

An increase in the number of labour inspectors leads almost automatically to an increase in the number of inspections, as was the case in France, Greece and Spain.

However, the number of inspections has also increased in countries where there have been staff cuts; Romania provides the best example with the number of enterprises visited rose by 0.3% between 2009 and 2010 despite the significant cut in the number of labour inspectors.

Increasing pressure on Labour Inspection agents

In the countries where the number of agents has fallen, the workload of remaining agents has grown and so has the pressure on them.

But even in countries where the number of agents has increased, inspectors still feel under increasing pressure because of the crisis and the issues it brings with it - redundancies, working time, non-payment of salaries...which often mean conflicts between employers and workers.

8.4 Undeclared work

For several years now and as a result of the migration to Europe the number of undocumented workers has increased; this trend has been confirmed and even reinforced during the crisis.

In countries where Labour Inspectorates are in charge of the control of labour and employment issues (Belgium, France, Hungary, Italy, Latvia, Poland and Spain) the control of the undeclared work has become a priority for governments and their Labour Inspection Services.

- **Belgium:** the Social Information and Investigation Service was set up to intensify and streamline the fight against social welfare benefit fraud. This new organisation is

specifically designed to improve coordination between the various agencies involved in fraud prevention. As part of this initiative, the competencies of social welfare inspectors have also been extended.

- **Czech Republic:** a multi-ministerial body for combating illegal employment of foreign workers was established in 2000.
- **Italy :** creation of the National Committee for the Formalization of Irregular Work in 1998; Italian labour inspectors are allowed to intervene in any action undertaken by government authorities in relation to combating undeclared work.
- **Latvia :**
 - the Labour Inspectorate (VDI), together with the Ministry of Welfare, is carrying out a four-year plan (2010-2013) to improve the inspectorate's capacity to reduce the incidence of illegal employment.
 - the VDI is publishing on its website the names of companies that have employed workers illegally.
 - the Ministry of Labour has established anonymous public hotlines to record grievances about undeclared work .
- **Belgium, France, Germany, Italy and Romania** have set up the European Network on Undeclared Work, which seeks to develop new strategies to fight illegal work.
- Some countries, such as **Denmark, Latvia and Poland**, are taking a preventive approach and are developing information campaigns, informing young people about the benefits of declared labour.

The issue of undeclared work is becoming a political or ideological subject to labour inspectors in some countries; in fact and as long as in most countries Labour inspectors have powers going far beyond those of police some governments are using labour inspectors as "policemen" in order to identify illegal workers and get them out of the country; this situation is given rise to ethical dilemmas amongst labour inspectors and in some countries (Spain or France) labour inspectors refuse to be "used" and to participate in specific campaigns against foreigners.

9. The main concerns for Labour Inspectors

9.1 Staffing

In most of the countries in the survey the number of labour inspectors is seen as inadequate in relation to the extent of their responsibilities, the increasing number of enterprises and workers and the increasing complexity of the labour market. During the economic crisis the number of labour inspectors has become a major issue because of the increased demands on their services and in some cases they have not been able to respond adequately because of limited resources.

In response to the economic crisis some governments have decided to cut staff of their labour Inspectorates or are not replacing those retiring, so that the issue of the number of labour inspectors has become more important.

The insufficient number of Labour inspectors has a negative impact both on workers' protection and on labour inspectors' own working conditions:

- The lack of inspectors can lead to a decrease either in the number of enterprises inspected or in the time spent on analysing each dossier and its possible implications; both cases result in limiting the effectiveness of labour inspectors' interventions.
- The lack of inspectors can also lead to overtime or additional pressure of work and in consequence to a worsening of their own working conditions.

9.2 Training

The changing labour market requires labour inspectors to continually adapt to new realities, new legislation and new challenges; moreover the impact of retirement means that skills and knowledge need to be transferred to new recruits. The only way of guaranteeing this is to provide an adequate level of training for both new and existing employees..

The reality is, however, one of insufficient financial resources, an insufficient number of labour inspectors and an ever-changing labour market. All these factors make difficult to provide proper training.

9.3 Personal security

For several years now and in a number of different countries, labour inspectors have faced physical or psychological abuse as a result of often being seen as an obstacle to a “free” economic development of the enterprise.

To take a few examples:

- In France in 2004 two inspectors were murdered by an employer during a site visit;
- In Romania trade unions highlight the fact that labour inspectors are vulnerable to intimidation and are not provided with protection against physical or psychological abuse; administrative sanctions imposed by labour inspectors can be serious and as a result they are sometimes threatened or even physically assaulted;
- The number of enterprises blocking the intervention of the labour inspectors is on the increase in Spain.

9.4 Liberalisation and de-regulation

In different countries political and legislative developments towards greater liberalization and reduced levels of inspection are having a negative impact on the scope of competences of labour inspectors and on their overall abilities and potential to check compliance with the legislation.

In some cases (working time issues is the best example) labour inspectors can no longer effectively monitor compliance with the legislation as tends to be too flexible, imprecise and subject to legal controversy.

Polish labour inspectors claim that “a number of labour law regulations (regulations on work time, on occupational health and safety and on legality of employment) are vague, incoherent and, hence, cause a lot of uncertainty, burdening the day-to-day activities of labour inspectors”.

One issue actually at stake is that of private/public partnerships with regards to the supervision and control of compliance with labour legislation.

The governing body of the ILO on its document “Labour administration and inspection: Challenges and perspectives” (2009) states that “*The supervision and control of a central authority could also be extended to public or private institutions engaged in similar activities.*”

Recent decades have seen significant growth in corporate social responsibility initiatives, especially in the context of multinational enterprises in the export sector, including the establishment of social reporting and private monitoring systems.

Such initiatives can be complementary to public inspection and may help to bring about improvements in working conditions. However, there is a risk that private inspection initiatives could undermine the public function, create enclaves of good practices with few linkages to the rest of the economy and divert attention and resources from other sectors that do not necessarily produce for export. In addition, many of these private initiatives keep monitoring reports confidential, thus preventing the identification of pertinent labour issues and the development of public policy to address them.

Labour inspection should be able to work with the different actors involved in the system, but the role of labour inspection should remain a public prerogative.

Only an effective public inspection system can render private monitoring credible and effective, inter alia because of the dissuasive effect of possible sanctions”.

No actual example of a public/private partnership is clearly identified in the countries covered by the present study.

9.5 Complexity of procedures

The main goal of labour inspectors is to check employers' compliance with labour and social legislation and so the bulk of their working time should be dedicated to the effective control in companies and at the workplace.

However, the reality is quite different as the increasing complexity of administrative procedures and the demands for reporting made by senior management, force labour inspectors to spend a great deal of their time on bureaucratic tasks and no on site visits.

9.6 New challenges

The new realities of the labour market (complexity of industrial processes, new illnesses, mental stress, outsourcing, complex supply chains) and the globalisation of labour relations (cross-border labour relations, freedom of movement and work inside the European Union...) make it necessary for labour inspectors:

- To develop new inspection skills and strategies for prevention;
- To improve data collection in the context of globalisation and worldwide employment relations;
- To improve administrative and legal means of action;
- To plan programming and reporting;
- To obtain a broader involvement of social partners at the national level to encourage more targeted action, especially in occupational health and safety issues;
- To keep a balance between sanctions and prevention.

Without these improvement the effectiveness of the labour inspection services will gradually diminish as will the protection provided to workers in their day-to-day activity.

9.7 Centralisation versus decentralisation

One of the principles established by ILO Convention 81 is that of a centralized inspection *“...placed under the supervision and control of a central authority”.*

Today there are some examples of decentralised organisation (Spain and Germany, for instance) which are obviously compatible with the provisions of the Convention provided that the functioning of the Labour Inspectorate is the same independently of the level of the organisation at which labour inspectors carry out their activities.

10. Recommendations

According to experts in the field, the labour inspection system faces a number of new as well as traditional challenges.

Traditional challenges/problems/sources of inefficiency are still present:

- inadequate financial resources to invest in inspection personnel and equipment;
- insufficient training for new recruits and existing staff;
- a lack of personal security and protection in the exercise of their functions;
- the absence of an appropriate regulatory framework ensuring the effectiveness of the labour inspection activity.

Moreover new challenges arise:

- the need to adapt to the changing labour market (complexity of industrial processes, new illnesses, mental stress, outsourcing, complex supply chains)
 - By means of new inspection skills and strategies for prevention
- the need to improve data collection in the context of globalisation and worldwide relations
 - Cross-border labour relations
 - Undeclared work
- the need to improve administrative and legal means of action;
- the need to plan programming and reporting;
- the need to obtain a broader involvement of social partners at the national level to encourage more targeted action, especially in OSH issues;
- the need to keep a balance between sanctions and prevention.

According to new challenges and taking into account today main concerns in the Labour Inspectorates, several recommendations have been proposed by the trade unions federations having answer to the questionnaire sent to them as part of the present study.

The first and obvious recommendation is that of increasing the number of labour inspectors to increase their effectiveness.

The second one is that of the training of labour inspectors to provide them with information and knowledge enough to cope with new realities.

The issue of the tasks devoted to labour inspectors is also a major concern: the number of controls should increase and that is only possible by reducing the administrative tasks assigned to labour inspectors.

The increasing globalization in labour relationships should lead to a better and more organised cooperation between the different national governments and control administrations.

Finally, the role that labour inspectors play in prevention should be stressed.

Moreover other recommendations can be made not only to improve the effectiveness of labour Inspectorates but also to improve labour inspectors' working conditions:

- strengthen the preventive role that labour inspectors must play through awareness raising, information, dissemination of good practices and providing technical guidance for workers and employers on how to meet their obligations;
- increase the amount of administrative sanctions or the severity of civil/criminal procedures so to compel employers to comply with legislation;
- improve cooperation between labour inspectorates and trade union organisations so that employees at the workplace (trade union representatives) cooperate with labour inspectors informing them about the infringements detected;
- harmonize procedures between labour inspectorates so that labour inspectors do not "feel alone" when carrying out their activities; implement measures in order to provide effective protection to labour inspectors when carrying out their missions.

No best practices were identified by the trade unions that responded to the questionnaire sent to them as part of this study.

However, some countries have implemented actions, campaigns, programmes or policies that can be considered as “best practices” taking into account either their results or their objectives.

In Spain in 2008 the Labour Inspectorate launched the Volunteer Accident Reduction Programme (PREVEA), which is designed for companies that experience high work-related injuries and want to improve their preventive systems and reduce the number and severity of accidents.

The companies participating in the programme do not receive programmed visits from labour inspectors and no fines are imposed except in cases of severe accidents, death or complaints; moreover the exclusion from sanctions is conditional on the following of a work plan and achieving the set objectives for improving safety and health.

Companies commit to taking proactive and preventive measures to improve working conditions and in order to participate in the programme, the company must have the support of its workforce or their representatives.

Also in **Spain** a Training School for Labour Inspectors was recently set up to provide information and training to new labour inspectors but also to help existing inspectors to *refresh* their knowledge.

In **Denmark** the Working Environment Authority has published risk assessment checklists for 60 different sectors or workplaces. These checklists are designed to help small enterprises carry out the mandatory risk assessment and they help identify the major hazards in the workplace. However, it is still the employer’s responsibility to ensure that the risk assessment carried out is appropriate, comprehensive, prepared in co-operation with the employees, and monitored regularly so that it can be revised if necessary.

The checklists contain a series of questions to which the company should answer yes or no. All questions to which the company answers yes constitute a working environment problem that must form part of an action plan which the company must draw up in connection with the checklist.

Also in **Denmark** a specific system of training for new inspectors has been organised: the mentoring system.

Each new inspector is allocated to an experienced inspector (mentor) for the first year of service. The mentor undertakes joint inspections and generally supports the new inspector during that period.

The mentor is also responsible for making regular evaluations of the progress of the new inspector.

Another example of good practice from **Denmark** is the “Smiley scheme”, adopted on the 1st of January 2005 and used widely as a quality mark in the public sector.

The smiley is awarded to an enterprise according to the results of an inspection. The details of awarded smileys are posted on the WEA website. An enterprise may be get one of four types of smiley: red, yellow, green or one with a crown.

It is hoped that by making the working environment visible to the public, including job applicants and customers and suppliers, enterprises will be motivated to continuously focus on the working environment.

In the **United Kingdom** and in partnerships between the HSE, the national employers’ and workers’ organizations and the national training institutes, awareness-raising events have been held for several years now at training centres primarily aimed at SMEs and the self-employed on the agriculture sector.

The events generally last half a day and focus on safety and health issues set by the labour inspectorate with trainers demonstrating how to improve working conditions and prevent accidents.

As an incentive to encourage participation the HSE said that those taking part would not be selected for preventive inspection in the following 2 years. This proved very successful and many SMEs and self-employed attended. Subsequent evaluation showed that many of them put the advice into practice as a result.

The Labour Inspection systems in different countries

1. An overview of the Labour Inspectorate in Belgium

1.1 *Legal framework*

The Belgium Labour Inspection is regulated by the Art 87-90bis Law of 10 April 1971 on accidents at work, the Law of 16 November 1972 on labour inspection, the Ministerial Decree of 28 March 2003 on the organization and functioning of labour inspection and the Art 216-256 Law of 20 July 2006 which has updated the labour inspection system.

1.2 *The organisation*

The labour inspectorate in Belgium is divided between several federal public services but it is also divided inside the different services according to the scope of competences given to the different labour inspectors.

On a global basis the Belgium Labour Inspectorate is under the responsibility of the Federal Public Service Employment, Labour and Social Dialogue Division.

There are several labour inspection services organised as follows:

- Two general directorates of the Federal Department (Ministry) of Employment, Labour and Social Consultation:
 - General directorate of control of social Laws, in charge of the supervision of social legislation,
 - General directorate of control of welfare at work.
- Inspection services under the responsibility of the Federal Department of Social Security and the National Social Security Office; they focus mainly on social security issues.
- Inspection services under the responsibility of the National Employment Office in charge of the control of provisions on unemployment.
- There are also inspection services at regional and community level whose competences include the control on the legal status of workers including migrant workers, the promotion of employment aids and the authorization of part-time employment agencies.

Since 2004, each region must prepare a regional action plan; this plan is elaborated on annual basis by the director general of each regional labour unit in cooperation with others labour inspectorates. It defines priorities and objectives, provides guidelines policies and establishes the operational criteria for inspections.

On a general basis, labour inspectors organize their tasks by using a system called “the Organization Anti-fraud Social Services Inspectorate” (OASIS) that allows them to have access to a set of information from vital statistics, directories of employers, social security or registries. By using this system labour inspectors are supposed to identify companies where targeted controls are justified and to conduct risk assessments.

Main tasks and issues

General directorate in charge of the control of social laws is responsible for ensuring the compliance of employers with:

- labour laws and social security legislation (hours of work, remuneration, leave and rest period ...);
- employment issues (hiring, restructuring...);
- the implementation of collective agreements (working conditions, status of the union delegation ...);
- industrial relations (social elections, protection of elected workers' representatives...),
- individual employment relationship.

Within its scope of competences Social Legislation Inspectors provide information to employers, workers, workers' representatives, trade unions..., give advice, act as mediators and check whether labour law and the collective agreements are respected.

On the other hand the Welfare Control Directorate is responsible for supervising issues related to workers' welfare at work; there is a wide range of issues covered by welfare inspectors:

- safety at work;
- health protection;
- psycho-social stress caused by work;
- ergonomics;
- hygiene at work;
- work-related accidents;
- environmental issues...

The Welfare Control Inspectorate works closely with existing networks of prevention advisors and prevention services dealing with workers' welfare.

Labour inspectors' scope of competences is limited to private employers and no control can be done on public administrations.

Labour inspectors are civil servants and they recruited according to their background (they must have a university degree in law, economic, social science, engineering or in medicine for the OSH inspectors). After having entered the post they are trained for 18 months.

According to the last available data (ILO 2009) the number of inspectors in charge of occupational health and safety was 194.

Labour Inspector's rights during inspection

The inspection carried out by the labour inspector can take place:

- Following a complaint from a worker, workers' organization
- According to scheduled or unplanned inspections.

Labour inspectors can carry out controls without any prior notification, at any time of the day or the night. Labour inspectors may seek assistance from the police whenever needed. Inspections on large building sites are often conducted in cooperation with other inspection services.

In Belgium a major role of the labour inspectors is to provide information and advice to employers and workers regarding civil and labour legislation especially on following issues:

- working time;
- the conditions of remuneration and employment which have to be generally complied with by all employers in a sector according to collective bargaining.

Employers and their workers must cooperate with labour inspectors during their visits. If inspectors encounter any active obstruction in their investigations, they may draw up a formal report on obstruction to inspection and transmit it to the public prosecution service.

Means of action of Labour Inspectors

When labour inspectors encounter law violations their first concern is to force the employer to rectify the illegal situation.

In most cases labour inspectors, according to their prevention and advisory role, prefer to issue a warning to the employer and give him a deadline by which the violation must be regularized instead of informing the court of any infringements by drawing up a formal report.

If the employer does not comply with the warning or in cases of serious and/or repeated violations, a formal report is drawn up and transmitted to the public prosecution service.

This report may lead to:

- judicial prosecution;
- administrative fines;
- the striking-off (or refusal of registration) as a contractor in the building sector and allied fields.

1.3. The global economic crisis and its impact on the labour inspection system

One of the main issues during and after the economic crisis has been (and still is) the undeclared work.

This issue is particularly pregnant in Belgium and due to this the Federal Government of Belgium has set up the Social Information and Investigation Service to intensify and streamline its fight against social welfare benefit fraud. This new organism is specifically designed to improve coordination between the various agencies involved in fraud prevention. As part of this initiative, the competencies of social welfare inspectors have also been extended.

On the other hand Belgium, together with other countries (France, Germany, Italy and Romania) has set up the European Network on Undeclared Work, which seeks to develop new strategies to fight illegal work.

Main concerns in day-to-day activity

Labour inspectors, according to main trade unions, face today several problems:

- The lack of staff;
- Bureaucracy and administrative tasks are very time consuming for labour inspectors;
- The traditional areas of control and prevention (labour law legislation, occupational health and safety...) are replaced by the control of undeclared work and of the status of migrant workers, which are considered as priorities for the government;
- Ageing staff and insufficient anticipation when recruiting new labour inspectors;
- Increasing number of foreign workers/enterprises so that labour inspectors should know about other national and EU legislations (e.g. EU provisions on posted workers) but in practice they lack training on these issues;
- Insufficient cooperation between the different institutions in charge of the supervision of labour law legislation.

2. An overview of the Labour Inspectorate in the Czech Republic

2.1. Legal framework

The Czech Labour Inspection system has been modified in recent years.

Since 1968 there was a uniform system of the state professional supervision of health and safety at work (the Czech Office of Occupational Safety and safety at work inspectorates).

The situation changed in July 2005, when a new labour inspection act entered into force, under which a new institution – the State Labour Inspection Office – and 8 regional inspectorates were created.

Today the Labour Inspectorate is regulated on the Act n° 251/2005, on labour inspection; Labour inspectorate is also committed to apply the principles of prevention contained in the Labour Code, according to the version adopted by Act n° 262/2006.

The Act n° 251/2006 introduced several major changes:

- Abolition of the Czech Office of Labour Inspection and creation of the State Labour Inspection Office;
- Abolition of safety at work inspectorates and development of regional labour inspectorates (Czech acronym OIP);
- Enlargement of the inspection powers with comprehensive control of compliance of obligations resulting from labour law regulations;
- Important increase of the upper limit for sanctions;
- Accurate definition of facts, transgressions and administrative offences liable of fines.

2.2. The organisation

The State Labour Inspection Office and regional labour inspectorates are state administration bodies responsible for the control of the compliance by private employers of obligations resulting from labour law obligations, including regulations on occupational safety and health protection. The labour inspectors have no competence to control public administrations.

The State Labour Inspection Office is under the supervision of the Ministry of Labour and Social Affairs.

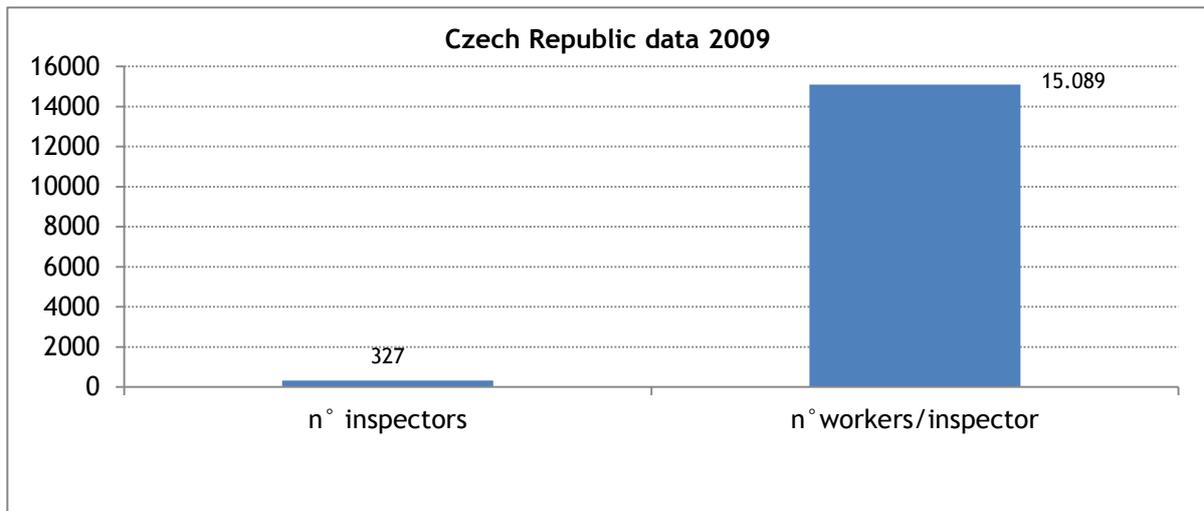
The labour inspection authorities in the Czech Republic is organised as follows:

- The State Labour Inspection Office, headed by an Inspector General, who is appointed by the Minister of Labour and Social Affairs;
- Regional labour inspectorates, managed by the State Labour Inspection Office and headed by head inspectors, who are – upon discussion with the Inspector General – appointed by the Minister of Labour and Social Affairs.

The State Labour Inspection Office has 546 employees in total (2009 data), out of them 327 inspectors distributed as follows:

- 203 inspectors act in the area of health and safety at work;

- 124 inspectors act in the area of labour relations and labour and working conditions.



Main tasks and issues

Labour inspectors control compliance of employers with obligations resulting from:

- legal regulations, which establish rights and obligations in labour law relations for employees, respective trade union body or council of employees or representative for occupational safety and health protection;
- legal regulations on remunerations to employees, refund of wage or salary and refund of expenses to the employees, with the exception of legal regulations on employment and legal regulations on protection of employees in case of employer's insolvency;
- legal regulations establishing working hours and rest time;
- legal regulations to ensure safety at work;
- legal regulations to ensure safe operation of technical equipment creating a risk to life and health and legal regulations on safe operation of specified technical equipment;
- legal regulations on employment of women, underage employee and employees taking care of children;
- legal regulations on performance of artistic, cultural, sporting and promotional activities by children.

Labour inspectors are entitled too to:

- check the compliance with collective agreements in those sections where the agreements regulate individual labour law entitlements of the employees resulting from legal regulations, as well as internal regulations;
- inspect observation of internal regulations issued under the Labour Code, provided they establish rights for the employees.

The competencies of labour inspectors do not apply to works and activities relating to mining, operation of rail/air transport or shipping, and partially to road transport and nuclear safety.

Furthermore, labour inspectors do not control hygiene at work, fire safety, environmental protection and commercial activities; all these sectors are covered by special legal regulations, and inspections are carried out by separate inspection authorities.

According to the national legislation, when carrying out their inspections, Labour inspectors must be guided by the principle of prevention and not by repression.

An additional, and important, role of Labour inspectors is that of information; in fact and according to the Labour Inspection Act, labour inspectors are required to provide employers and employees with free basic information and consulting relating to the protection of labour/working relations and conditions, including the area of health safety at work.

In order to promote this role, advisory and consulting contact points have been established in all districts in the Czech Republic; these points are open during certain hours one day a week.

Beside inspection and information activities, the State Labour Inspection Office takes decisions in administration procedures and reviews decisions on fines imposed in administration procedures and bans issued by regional labour inspectorates. Finally the State Labour Inspection Office can submit proposals towards amendment of laws and regulations within the scope of its activity to the Ministry of Labour and Social Affairs.

The activity of labour inspectorates is based on annual activity programmes that are discussed with trade union confederations and employer associations, and then submitted to the Ministry of Labour and Social Affairs for approval. The annual plan is based on analysis of occupational accidents, situation in occupational safety and health, labour conditions and the conclusions contained in the annual summary report on results of inspections performed by labour inspectors in the preceding year.

The fields of activity included in the annual plan are:

- Annual inspection activity programme;
- Legal activity;
- Development of information systems;
- Conceptual, methodical and research activities;
- Analyses and planning;
- Education and learning;
- Internal management and administration.

Labour Inspector's rights during inspection

When carrying out their activities, labour Inspectors are entitled to:

- Perform inspections in terms of the Labour Inspection Act, in case the following persons are present at the moment an inspection is commenced: a member of the statutory body of an inspected entity, a representative of an inspected entity, an employee of an inspected entity, cooperating family member or any other person executing and/or ensuring activities at the workplace;
- Enter, free of charge, any premises, facilities, and production areas of inspected entities;
- Request from inspected entities the provision of accurate and complete information on investigated and associated facts;
- Identify, during an inspection, any person present at the workplace;

- Request from inspected entities to present original documents within certain deadlines, as well as other documents, samples of materials, substances, or products needed for an inspection;
- Make copies of parts of documents in order to evidence the failure to fulfill / insufficient fulfillment of obligations ascertained when performing the inspection;
- In cases requiring special consideration, in case of an imminent risk of default
 - Secure documents;
 - Take the necessary volume of samples of materials, substances and/or products to be analyzed;
 - Order an execution of measurements, examinations, tests, or revision.
- Question employees of an inspected entity, without the presence of any other person, with regards to matters related to the inspection;
- Order the maintenance of an accident location in its original conditions until the completion of an investigation of work accidents and/or for the period necessary to document the accident location;
- Render a decision concerning a ban on:
 - The use of premises, facilities, production / working equipment or instruments, working or technological procedures, substances or materials, performance of works or activities, which endanger the safety of employees until the removal of any defects; for this purpose, an inspector may order any present person to immediately leave the premises;
 - Any overtime work, night-time work, work of women/youth if it is carried out in contrary to a special legal regulation.
- Impose on the inspected entity measures to remove any discrepancies ascertained during an inspection and to set reasonable deadlines for the removal thereof, and to require submission of a written report on any measures adopted;
- Impose disciplinary sanctions.

Means of action of Labour Inspectors

In case an inspection discovers a material violation of obligations resulting from legal regulations, the inspector is to prevent the persistence of such undesired situation. For this purpose, an inspector may order the removal/remedy of any ascertained deficiencies and set reasonable deadlines.

In case of an imminent risk to life or health, an inspector may render a decision banning the use of workplaces, production/working means or equipment, procedures and activities; the inspector may also ban any overtime work, night-time work, or work of women/youth if carried out in contrary to valid regulations.

In case of an administrative violation according to the Labour Inspection Act, an inspector may impose a fine up to the amount of CZK 10,000 (408 €).

Higher fines – up to CZK 2,000,000 (82 000 €) – may be imposed on the inspectorate level, which also acts as a first instance administrative authority.

It is possible to appeal the decision of such inspectorate; the appeal is ruled upon by the State Labour Inspection Office in Opava.

Final decision may be challenged by an action submitted to a competent court.

2.3. *The global economic crisis and its impact on the labour inspection system*

The Czech Republic has not proceeded to any cut in operational budgets and/or staff of Labour Inspectorates.

On the contrary and due to the increase of undeclared work (as main consequence of the worldwide crisis) the Czech country has implemented law reforms so as to give national enforcement agencies stronger sanctioning tools; this has been done by the Employment Act and specific campaigns to fight against illegal labour.

3. An overview of the Labour Inspectorate in Denmark

3.1. Legal framework

The department responsible for Labour Inspection in Denmark is the Danish Working Environment Authority (DWEA).

The organization, scope, powers and responsibilities of the DWEA are regulated by the Working Environment Act, Consolidated Act No. 268 of 18 March 2005 (as subsequently amended by the Danish Ministry of Employment)

3.2. The organisation

The DWEA is a public agency under the responsibility of the Ministry of Employment in charge of the control of the compliance of employers with the legislation on occupational health and safety at work. The labour inspectors have no competence to control public administrations.

Occupational health and safety is understood in a broad sense as it includes:

- general working conditions: working time, rest periods, shifts, welfare facilities...;
- employment issues such as work protection of children and young people, pregnant women, self employed persons, disabled or immigrants.

The scope of supervision of the DWEA includes all sectors of industry except work in the employer's private household, work carried out exclusively by members of the employer's family and work which is carried out by military personnel.

Moreover the control in several activity sectors is not attributed to the DWEA inspectors but to other public authorities:

- seagoing ships goes to the Danish Maritime;
- aviation falls under the responsibility of the Department of Transport;
- offshore installations goes to inspectors from the Department of Energy monitor;
- the Institute of Radiation Hygiene controls the use of ionising and non-ionising radiation at work;
- general fire matters at workplaces fall to the local fire authorities.

In last years the DWEA has gone through an important reorganisation; today, the DWEA is managed by an Administrative Board and organised as follows:

- The headquarters located in Copenhagen;
- Three regional Inspection Centres organised in inspection groups and thematic groups.

In 2008 (last available data according to the SLIC report 2008) the DWEA had approximately 760 employees of whom around 520 inspectors. Labour inspectors are recruited as public servants and the selection process is based mainly on educational background but also on competences and skills.

One of the main issues of the reorganization of the DWEA has been that of training of labour inspectors; in fact a training programme for new inspectors lasting 26 days has been put in place aiming at providing new inspectors with the basic competences so as to enable them

to conduct inspections on a general level, rather than to train them for specialist roles or give them advanced knowledge of health and safety problems; moreover a mentoring system has been organised: each new inspector is allocated to an experienced inspector 'mentor' for the first year of service and makes joint inspections with his/her mentor.

Main tasks and issues

According to the "Performance Contract for the WEA 2008 to 2011", the mission statement for the Authority is to "*contribute to a safe, healthy and developing working environment through efficient inspection, targeted regulation and information*" while the vision statement is to "*focus on the most important working environment problems and target efforts towards enterprises with a problematic working environment*".

The main objectives are "effective inspection, the encouragement of self-regulation in enterprises and keeping up to date in terms of monitoring, research and policy so as to advise the Minister for Employment".

To achieve its objectives the DWEA can carry out different types of inspection in the enterprises:

- **A screening inspection:** a quick review of the health and safety conditions of an enterprise; according to the objectives fixed to the DWEA, all Danish enterprises should be inspected by the end of 2011 in order to be classified as 'with or without significant health and safety problems'.
On a general basis, screening visits are unannounced and an enterprise with significant health and safety problems will be subject to an adapted inspection;
- In **adapted inspections** the DWEA inspectors, within 8 weeks of the screening inspection, visit enterprises that have the most hazardous working environment conditions. The inspection is solution-oriented and takes into consideration the enterprises' own efforts to improve the working environment and standards of working conditions in the enterprise;
Unannounced follow-up inspections are carried out if problems were found out during the adapted inspection. In any case a follow-up visit should be carried out within two years of the adapted inspection. If there are no further problems following the adapted inspection, the enterprise returns to the 'screening pool' where, from the year 2012, it should be re-screened every three years.
- **Detailed inspections** are carried out to check special issues, including examination of work-related accidents and occupational diseases;
- **Supplier inspections:** inspection of safety and health for the users of one or more of the suppliers' products;
- **Project and counseling inspections:** inspection of the rights and duties of the project and counseling parties in compliance with the DWEA;
- **Special inspections** include inspection of lifts, boilers, containers, pipeline systems, natural gas plants, risky enterprises and genetics laboratories.

The activity of labour inspectors is organised according to a strategic and operational planning; in 2005 the government announced that the DWEA targets for 2005-2010 were:

- Industrial accidents aiming at reducing current figures by 20%;
- Psychological working environment 10% reduction;
- Noise: 15% reduction in hearing damage and 10% reduction in nuisance noise;
- Musculo-skeletal disorders: 10% reduction in total sickness absence due to musculo-skeletal difficulties at work.

According to the “Report on the Evaluation of the Danish Working Environment Authority in 2008” done by the SLIC, labour inspectors spend, on average, 30% to 35% of their time on inspection (with 15% travel time) with the remainder on various administrative and office duties.

Labour Inspector’s rights during inspection

The powers of the WEA inspectors are set out in the Working Environment Act and according to it labour inspectors have the power:

- to gain access to workplaces at any time without a court order;
- to supervise and investigate any or all parts of production or the enterprise;
- to take samples from the enterprise for analysis, as well as take photographs;
- to gain access to reports or other documentation with significance for safety and health, including minutes of safety committee meetings;
- to collect appropriate information from employers and employees;
- to impose necessary sanctions, including requiring the employer to carry out investigations, tests and inspections to ascertain whether the working conditions are adequate in terms of safety and health;
- to demand that work ceases immediately in the event of a significant immediate danger.

Means of action of Labour Inspectors

According to the current legislation the DWEA has a wide range of actions aiming at ensuring compliance with the Working Environment Act:

- **Improvement notice on the use of an authorised consultant:** in that case the enterprise is required to use an authorized safety and health advisor to help solve one or more of its working environment problems; in any case the employer is responsible for ensuring that the improvement notice is complied;
- **Investigation notice:** it takes place if the DWEA believes that there are problems with the enterprise's working environment, but is unable to provide evidence to confirming this;
- **Improvement notice with a deadline:** the enterprise may continue its production but must solve the detected problem before the expiration of the deadline. After the deadline the employer must report back to the WEA, otherwise or if the report is unsatisfactory, an additional inspection will be carried out;
- **Immediate improvement notice:** it is issued in case there is a serious working environment problem that must be repaired immediately;
- **Report on the psycho-social working environment;**
- **Prohibition notices:** it is issued whenever there is an imminent and great danger to the health and safety of the employees and/or others in the enterprise; in these cases all work must stop immediately, and it will resume only when the danger disappears.
- **Administrative fines:** according to the Statutory Order on Fines of 2002, they can be issued when :

- There is a clear and uncomplicated violation;
- There is a severe violation of clear and known rules on a subject where there is documented risk of injury or danger to health must have taken place:
- it should not be likely that the case will lead to a more severe punishment than a fine.

The current legislation determines the typical matters that may be dealt with by means of an administrative fine. Whenever the employer refuses to pay the fine, the DWEA will inform about that to the public prosecution service.

- **Police reports:** in case there are severe violations of the working environment rules.

3.3. The global economic crisis and its impact on the labour inspection system

No direct impact of the economic crisis on the labour inspection system has been observed; on the contrary and after the reorganization introduced in the DWEA some positive aspects and good practices have been identified by the SLIC in its 2008 evaluation; according to the "SLIC report on the Evaluation of the Danish Working Environment Authority in 2008" the main positive aspects and best practices are the following ones:

Observed trends

- Changes in the workforce (more 'white collar' work, decline of traditional industries, labour shortages, aging population, more non- Danish nationals in the workforce) and need for WEA to reflect these trends.
- 'Politicisation' of health and safety and in particular in the need to tackle the main causes of health and safety related absenteeism. It is recognised that the 'screening programme' is a political requirement, and that considerable and welcomed extra resources were allocated to the WEA for this program.
- WEA reorganisation into a smaller number of regional offices, with inspectors working in both sector based and 'thematic' issue based groups in each office.
- Open government is an accepted principle, as is the **active involvement of the social partners.**

Good practice and initiatives

- Excellent guidance material handed out during inspections, readily available information (from the WEA website and from the WEA public information call centres)
- Progressive programme for addressing the psycho-social issues using extensive sector guidance and specialist pro-active task forces in each WEA regional office.
- Effective data record system.
- Comprehensive internal training programme for trainee inspectors.
- Good attempt at the monitoring and review of WEA activities and outcomes using the database.

Innovation

- The smiley scheme involves allocating a graded 'smiley' to each enterprise following an inspection. The type of smiley gives an indication of the status of the enterprise following inspection. This information is open to the public via the WEA website.
- The 'screening programme', which attempts to ensure that all enterprises are listed on the WEA database and are given at least a basic inspection, while prioritising them for future WEA attention.

- The certified system and use of authorised consultants.

4. An overview of the Labour Inspectorate in France

4.1. Legal framework

The French Labour Inspectorate has been deeply modified in recent years through the merger in 2009 of the different existing Labour Inspectorates (Labour, Agriculture and Transports Inspectorates)

Today the unique Labour Inspectorate is regulated by:

- Decree n°2006-1033 (August 22th) on the creation of the DGT (General Direction of Work),
- *Circulaire interministérielle* n°2008-18 (October 10th) on the territorial organisation of the Labour Inspectorate following the merger of the services,
- Decree n° 2008-1503 (December 30th) on the merger of the three labour inspectorates,
- *Circulaire* (March 19th) and *circulaire* 31 December 2008 on the reform of the organisation of the territorial services of the State,
- *Circulaire* 7 July 2008 on the departmental organisation of the State,
- *Arrêté* 23 July 2009 on the creation and distribution of the Labour Inspectorate' Sections,
- Decree n°2009-1377 (November 10th) on the organisation and tasks of the DIRECCTE (Regional Directions of the Enterprise, the Competence, the Consumption, the Labour and the Employment)

4.2. The organisation

The French system aiming at controlling and inspecting the compliance with the labour legislation is quite complex as different public entities and agents intervene in such issues:

- A Labour Inspectorate system integrated by :
 - A unique service of Labour Inspection in charge of the control of almost all activity sectors (industry, commerce, services, agriculture, transports and sea) and depending from the Ministry of Labour,
 - Civil servants playing a role of Labour Inspection in specific sectors (mines, hydroelectric installations, national defense establishments) and depending of their respective Ministry.
- Different organisms working together with the labour inspectorate in order to check compliance with labour legislation; the main ones are:
 - The inspection of classified establishments (from an environmental point of view),
 - The ANACT (National Agency for the improvement of working conditions),
 - The public administration in charge of work related accidents and occupational diseases,
 - The MSA (the Agriculture Social Mutuality),
 - The OPPBTP (the professional organism for the prevention in construction and public engineering),
 - The ASN (the nuclear security Authority),
 - The AFSSET (the French Agency for the environmental and labour health security).

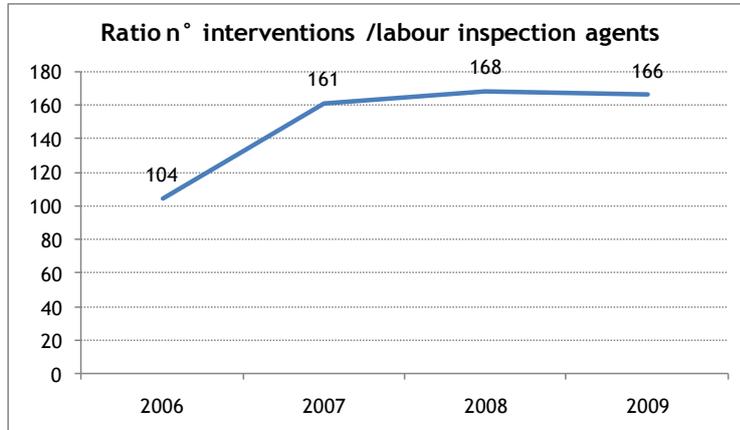
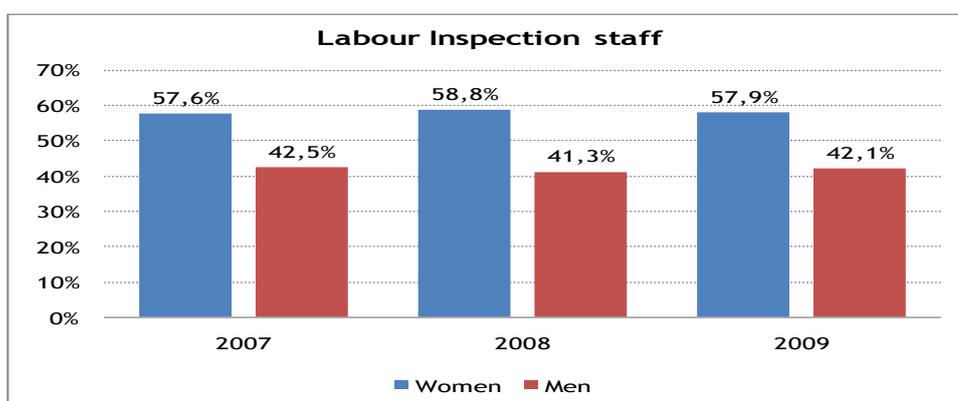
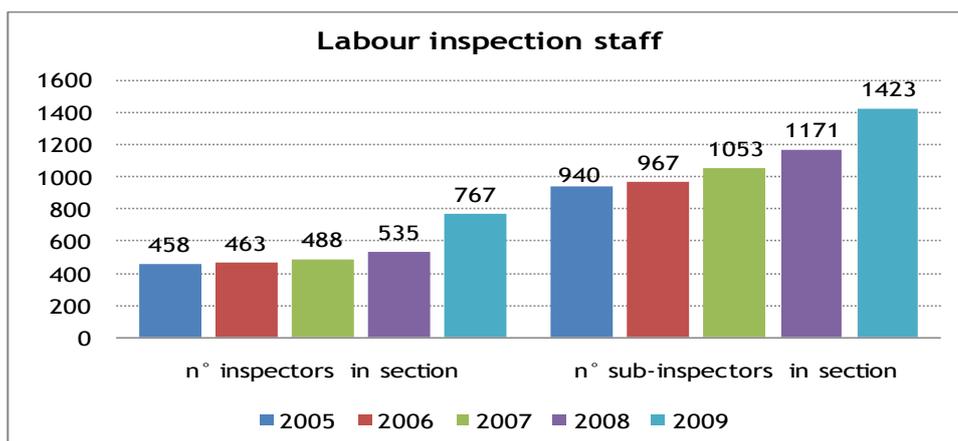
The Labour Inspectorate is under the supervision of the Ministry of Labour and, from January 1st 2009, it is organised as follows:

- Central/national level:

- The central authority is the DGT (General Direction of Labour), in charge of the definition, preparation and coordination of the national labour policy aiming to improve individual and collective relations and working conditions.
 - The CNIT (National Council on Labour Inspection) that guarantees the adequate exercise of tasks of the Labour Inspectorate and its effectiveness.
 - The DAGEMO (Direction of General Administration and Modernisation of Services) responsible for managing the civil servants and the resources of the Labour Inspectorate.
 - The IGAS (General Inspectorate of Social Affairs) with a role of control, assessment and counsel on administrative and social issues.
 - The INTEFP (National Institute of Labour, Employment and Vocational Training) that provides training for Labour Inspectors.
- Regional level:
 - The DIRECCTE (Regional Directions of the Enterprise, Competence, Consumption, Labour and Employment) are organised as follows:
 - A pole “Labour policy”
 - A pole “Enterprises, employment and economy”
 - A pole “Competence, consumption, metrology and repression of frauds”Moreover at regional level, a support to Labour Inspectors is guaranteed through:
 - Regional and multidisciplinary poles providing a scientific and technical support on occupational health and safety,
 - Doctor Labour Inspectors in charge of occupational health and safety issues,
 - Engineers and technicians on prevention.
- Departmental level:
 - Territorial Units in charge of the implementation of public policies,
 - Labour Inspection sections in charge of the effective control in enterprises
 - Labour Inspectors,
 - Labour sub-inspectors/controllers whose powers and competences are restricted to enterprises with less than 50 workers.In 2009 there were 783 labour inspection sections in France (including the DOM) ; on a normal basis a labour inspection section is composed by a single labour inspection, one or several sub-inspectors and one or two secretaries (sometimes an labour sub-director is also affected to a section).
Only labour inspectors and sub-inspectors in labour inspection services intervene effectively in enterprises to check compliance with labour legislation; labour inspectors in regional or central structures carry out mainly administrative tasks.

Labour Inspectors are civil servants and they are recruited after a process of public selection; after the recruitment a training period lasting 18 months is organised by the INTEFP

The number of Labour Inspectors has increased in a substantial way in recent years; after the murder of two control inspectors it was announced in 2006 the implementation of the “Plan for the modernization and the development of the Labour Inspectorate”; one of its majors measures was the increase of the staff of the Labour Inspectorate by 700 additional labour inspectors and sub-inspectors by 2010; this goal has been achieved (701 recruitments) but the impact of retirement is still important and plays a negative role on the final figures



Main tasks and issues

The French Labour Inspection is a « generalist » inspection which means that:

- The Labour Inspectorate must check the compliance of employers with the labour legislation, either state legislation or provisions issued from collective bargaining;
- The unique Labour Inspectorate is in charge of the control in all types of activities and sectors but those excluded by law (mines, hydroelectric installations, national defense establishments). On a general basis Labour inspectors have no competences on public sector but there are some minor exceptions regarding occupational health and safety and working conditions issues;
- The Labour Inspection has competences on working conditions, employment conditions, individual labour relations, collective labour relations...

According to the generalist definition of the French Labour Inspection, its members have a broad field of competences on issues regarding:

- Occupational health and safety and working conditions ;
- Quality and effectiveness in the implementation of Labour Law ;
- Social dialogue ;
- Fight against undeclared work;
- Employment and vocational training.

“The modernisation and development of Labour Inspection plan” has reinforced the powers and competences of the labour inspections by taking into account the evolutions of the labour market in terms of working time, work organisation, social dialogue, salaries and wages and labour environment.

Labour inspectors have three main roles:

- control to check compliance with labour legislation;
- information and counseling to workers, employers and workers’ representatives on labour legislation issues;
- conciliation and mediation.

Labour inspectors play also an important role with regards to the **protection of workers’ representatives**: prior to any dismissal of a workers’ representative an authorization of the labour inspector is needed and if he/she does not agree on the dismissal it cannot take place.

Each year the central authority establishes a national program of intervention for the Labour Inspectorates according to national priorities decided also by the central authority; these national priorities are implemented at local level.

The central authority draws each year a report on the content and scope of labour legislations and on the best ways of implementation of the legislation; this report is used by labour inspectors when programming their annual activity.

Labour Inspector’s rights during inspection

When carrying out their visits, labour inspectors are entitled to:

- enter any workplace to carry out an inspection at any time of the day or the night even if the employer is not in the workplace;
- question employees and the employer, with or without any witness, on any issue concerning the implementation of labour legislation.

Means of action of Labour Inspectors

Whenever carrying out a visit and detecting a violation of the labour legislation, the labour inspector disposes of a wide range of powers aiming to repair the violation, eliminate the occupational risks or reduce them; the labour inspection has a discretionary power to decide which measure should be taken.

The major means of action are the following ones:

- Simple warning: in case of non compliance with labour provisions, the labour inspector can recall their compulsory character to employers;
- Improvement notice with a deadline : in case of non compliance with labour provisions, especially on occupational health and safety issues, labour inspectors fixe a deadline to the employer to put an end to the violation; the enterprise may continue its production but the employer must solve the detected problem before the expiration of the deadline;
- Reports addressed to the penal courts in case of severe violations of labour legislation, punished by the penal authority;

- Prohibition notice: it is issued whenever there is an imminent and great danger to the safety and health of the employees and/or others in the construction sites; in these cases all work must stop immediately and it will resume once the danger disappears;
- Report addressed to the labour court in case of danger for workers in order to obtain the implementation of provisional measures aiming to make the danger cease.

The administrative measures taken by labour inspectors can be appealed in different ways (labour director, Labour Ministry or administrative court).

4.3. The global economic crisis and its impact on the labour inspection system

The implementation of “The modernisation and development of Labour Inspection plan” has led to a substantial increase of the number of staff in the Labour Inspection.

Due to this, the number of interventions and controls of labour inspection agents has grown up by more than 40% between 2006 and 2009.

More specifically the number of interventions and controls related to the economic crisis has grown up strongly (+47% between 2008 and 2009) as labour inspectors must intervene in issues like: collective redundancies lay off of workers’ representatives, collective conflicts, temporary unemployment...).

As a result the workload of labour inspectors is considerably higher today than before the crisis, despite the increase of staff.

Main concerns in day-to-day activity

The workload of labour inspectors and sub-inspectors increase regularly not only due to the crisis but also due to new issues, occupational health and safety, psycho-social risks..., that are very time consuming and demand an additional effort on training and control to the Labour Inspectors and sub-inspectors.

Major and continuous changes introduced in the organization of the Labour administration lead to shortcuts in functioning, de-motivation of the agents, the need to adapt to new ways of action, new functions, new tasks...

The number of reports addressed to penal courts that lead to no legal prosecution is still high (25% of cases are simply abandoned and more than 15% lead to mere warnings); this lack of effectiveness is highly damageable for the motivation of labour inspectors.

In recent years the issue of the personal security of labour inspection agents has become a major problem; in 2004 two control agents were murdered during a control visit and threats, oral and physical violence exerted against labour inspection agents are regularly increasing (80 affairs identified in 2009).

On the other hand the number of agents prosecuted on criminal basis in relation with their activity is also increasing (4 penal cases in 2009); the number of penal prosecutions is bound to increase with regards to the issues controlled by labour inspectors, especially in matters concerning public health (the best example is that of asbestos)

In order to face both problems the Ministry of Labour has put into place a complex system aiming to protect their agents by providing them with juridical and psychological support without any economic cost for the agents.

5. An overview of the Labour Inspectorate in Germany

5.1. Legal framework

German Labour Inspectorate is a specialised one as it is responsible for the control of the compliance with occupational health and safety regulations in the private sector (so that no competence is given to the Labour Inspectorate with regards to public administration).

According to the political organisation in Germany, the national Occupational Health and Safety System is a dual one; this duality means that the responsibility for workplace health and safety is held jointly by the OSH administrations of the sixteen regional governments in Germany and the accident insurance institutions ("*Berufsgenossenschaft*" (BGs)).

This duality explains that there is a double level of legislation with regards to occupational health and safety:

- legislation at the federal level, executed by regional state authorities (Länder),
- internal accident prevention regulations established by the BGs.

A major legislative reform was adopted in November 2008 "*The act for the modernization of the accident insurance system*". This reform included statutory provisions for a "Joint German OSH Strategy" and according to it, the German federal government, the sixteen regional governments and the accident insurance institutions hold joint and equal responsibility for a national OSH strategy.

This strategy is established by the National Occupational Safety and Health Conference (NAK) in which are represented three voting representatives each from the German federal government, regional governments, and the statutory accident insurance institutions, and up to three advisory representatives each from the associations of the social partners (employers and workers).

According to this strategy the three main occupational health and safety aims for the period 2008-2012 are:

- The reduction in the frequency and severity of occupational accidents,
- The reduction of musculoskeletal workloads and disorders,
- The reduction in the frequency and severity of skin diseases.

Based upon the common OSH targets, the parties to the Strategy have agreed upon six priority and compulsory work programs to be implemented with uniform principles, to be assessed with regard to their effectiveness and to be conducted uniformly throughout Germany.

5.2. The organisation

Labour inspection is carried out by Länder authorities and the responsibility lies with the Ministries of Labour at Land level, each of which has their own network of district offices (and in some Länder with an intermediate authority as well). The resulting organization is therefore complex and not homogenous.

According to the statements of the German government to the CEARC (Committee of Experts on the Application of Conventions and Recommendations, depending from de ILO) for the 2009 report "*The organization of labour inspection services lies within the sovereign competence of the Länder and can only be influenced to a limited extent. However, ...uniformity of treatment in relation to the objectives of occupational safety is guaranteed at*

the federal level by the Committee of the Länder for Occupational Safety and Health (LASI), which is specifically responsible for examining the fundamental aspects of the subject from a unified approach.

The representatives of the higher labour inspection authorities of the Länder take decisions in the LASI with regard to the implementation of the relevant regulations, with the object of adopting an identical approach in all Länder. Moreover, the LASI examines legal issues relating to occupational safety and health with a view to the harmonized application of the legislation, both with regard to substantive issues and organizational matters inherent to its implementation (strategy, organization, personnel, reporting and information mechanisms and procedures, continuous training and education, the exchange of experience)".

The political organisation of Germany and the duality of the OSH system require an adequate operational coordination between all the actors, both between the 16 regional governments themselves but also between these ones and the services provided by the BGs.

With regard to the internal coordination and cooperation between the different Länder, the CEARC (report 2009) considers that *"The use by each structure responsible for labour inspection of different information technology systems"* remains a cause for concern, that results *"...in difficulties in the communication of information"*

On the contrary, the federal Government affirms that *"The labour inspection services in the Länder use standard information technology systems and that there is no difficulty in the exchange of information and data by electronic mail. It considers that technological progress means that it is possible to exchange data between different systems without the risk of data loss. It adds that the relevant data are compiled in 12 Länder using a common program (the IFAS Information System for Labour Inspection Administrations), that the Land of North Rhine-Westphalia, which currently uses its own program, is envisaging the introduction of IFAS, and that the system used in Hamburg is compatible with IFAS.*

According to the Government, although the exchange of operational data between the Länder is limited by the legislation on data privacy, taking into account the territorial competences of the Länder, the direct exchange of information between Länder is not necessary".

With regard to the cooperation between the regional Labour Inspectorates and the BGs, the Joint German OSH Strategy has strengthened the priority given to operational coordination of the regional activities of the BGs and the Länder state labour inspections.

According to this, the regional labour inspection services are piloting a joint operations database for the sharing of information on completed and planned inspections.

Scope of competences of the Labour Inspectorate

The Labour Inspectors are responsible for the control of the compliance with the legislation on occupational health and safety, but considering it in a broad way, including the control of working hours (this issue can have a direct impact on workers' health and safety) or maternity and youth employment protection.

In some Länder Labour inspectors are also in charge of the control for certain aspects of environmental protection.

Labour Inspector's rights during inspection

When carrying out their activities, Labour inspectors are entitled to:

- Enter any workplace at any moment and without previous announcement;

- Carry out technical tests;
- Question employees and the employer, with or without any witness, on any issue concerning the implementation of the legislation;
- Examine all documents and information related to the compliance with the legislation;
- Take samples of materials, substances and/or products used in the enterprise to have them examined.

Means of action of Labour Inspectors

Whenever carrying out a visit and detecting a violation of the labour legislation, the labour inspector disposes of a wide range of powers aiming to put an end to the violation:

- Issue a warning and advise the relevant company departments (they often offer their help to ensure that deficiencies and breaches of the law are rectified);
- Issue a warning with a deadline;
- Impose administrative fines and penalties;
- Shutdown notices in case of severe and imminent danger for workers' health and safety;
- Prohibit the use of certain materials and equipment.

5.3. The global economic crisis and its impact on the labour inspection system

The main impact of the economic crisis on the labour inspection system has been the decrease of the number of inspectors as a result of the general policy of a reduction of the number of civil servants and public employees, in accordance with the austerity plans of the governments of the Länder.

In fact no direct cut has taken place but persons leaving, for retirement or for other reasons, have not been replaced.

Main concerns of the Labour Inspectorate system

There is a consensus of the CEARC and the SLIC on the issues of concern with regards to the German Labour inspectorate:

- Insufficient number and qualifications of inspection personnel. According to the CEARC "for several years a dispersal of competence for the recruitment of inspection personnel has led to a decrease in the number of new recruits and therefore a considerable loss of expertise.
- In addition, the large number of authorities responsible for training in the various structures is resulting in a managerial imbalance in this respect"
- The existence of dual structures carries the risk of different approaches to implementation and makes coordination between the different Länder difficult;
- The fragmentation of inspection tasks between different departments, municipalities and urban districts reduces the impact of state control, the latter being limited to the monitoring of legality;

- Competencies for occupational safety and health are divided among an excessive number of regional subdivisions within each Land government;
- The diversity of computing systems used by the different structures is a source of difficulties in communication and information.

6. An overview of the Labour Inspectorate in Greece

6.1. Legal framework

The Greek Labour Inspectorate Body (S.EP.E) is regulated by the Presidential Decree N° 136/99 on Organisational Planning of S.EP.E (30/06/1999), the Act 2639/98 on Establishment of the S.EP.E (02/09/1998), the Law N° 2874/00 on Promotion of Employment and other provisions and by the Law N° 3762/09 on Restructuring of S.EP.E and other organisations settlement under the YP.A.K.P. (15/05/2009).

6.2. The organisation

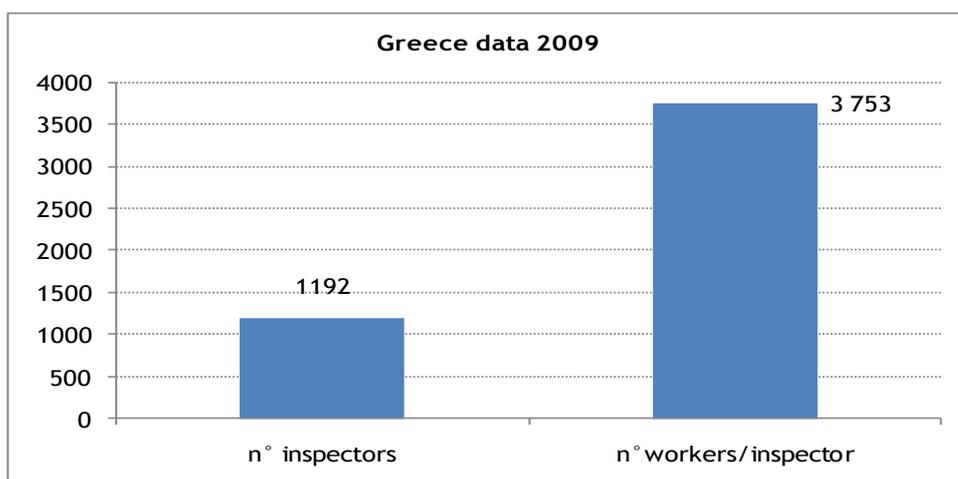
The S.EP.E is a central body depending directly of the Minister of Employment and Social Protection and it works under the supervision of a Special Secretary appointed by the Government.

The S.EP.E is composed of several bodies organised both at geographical level and competences level:

- the Central Labour Inspectorate, which is divided into:
 - the Service of Special Inspectors;
 - three Directorates:
 - the Directorate of Programming and Monitoring the Technical and Medical Inspection Offices;
 - the Directorate of Programming and Monitoring the Social Labour Inspection Offices;
 - the Directorate of Administrative and Technical Support.
- 96 regional Social Labour Inspectorate Offices;

52 regional Technical and Medical Labour Inspectorate Offices (in charge of occupational Health & Safety); the occupational health & safety inspection is more centralised than the social labour inspection due mainly to a lack of staff.

The labour inspectors are civil servants selected by a state personnel selection commission; candidates for labour inspection posts must have a university degree in economics, public administration, social studies, or law and very good knowledge in at least one European language, informatics ability is also a prerequisite; candidates for the technical and medical posts are required to have a degree in engineering or medical studies, respectively. A training period of three weeks takes place after the nomination as labour or technical and medical labour inspector.



Main tasks and issues

The scope of competences of the Greek Labour Inspectorate includes all companies in the private **and the public** sectors.

The main role of the Social Labour Inspectorate staff is to:

- carry out inspections regarding enforcement of the general protective labour legislation, workers' social insurance coverage and the legality of their employment;
- provide counselling, instructions and suggestions to workers and employers on the effective application of the existing provisions on issues of industrial relations and labour legislation;
- mediate between employers and employees so as to resolve disputes on labour matters.

The basic tasks of the Technical and Medical Labour Inspectorate include:

- to carry out inspections regarding the enforcement of the legislation on workers' health and safety;
- to investigate the causes of serious and fatal accidents at work and the nature and causes of occupational illnesses;
- to make suggestions for actions to safeguard workers' health and safety;
- to provide advice, instructions and suggestions to workers and employers on these matters.

The preventive role of Labour inspectors is especially important in Greece; in particular the technical and medical labour inspectors must inform employers and employees and advise them on safety and health issues; in order to do so they provide leaflets and guidelines to employers and employees during inspections.

The activity of Labour Inspectors is organised taking into account a double parameter: the complaints sent by particulars and the programme organised by the central Directorate.

According to this, each chief inspector establishes a weekly or monthly plan for each inspector; a monthly report is done on the basis of the number of accomplished inspections and mediations, successful or not.

There is a constant communication between central directorate and regional offices with regards to legal matters, problems which need special consideration, technical support and general practical issues; cooperation is especially important between social labour inspectorates and technical and medical labour inspectorates (a labour office can request the technical and medical labour inspection where violations on health and safety have been observed during a "social" inspection).

Labour Inspector's rights during inspection

Inspectors can carry out either scheduled visits according to complaints or programs fixed by their hierarchy or random visits decided by the inspector.

Inspections can be done without prior notification and whenever needed, by day or by night.

Visits are always held by two inspectors (but the lack of personnel in regional offices makes it difficult quite often). Each inspector must carry out at least 7 inspections per month (however, this number is usually higher in central offices)

Means of action of Labour Inspectors

When non compliance with the labour legislation is observed during inspection in an enterprise, a five-day deadline is allowed to the employer to prepare a document explaining the reasons for the observed violation, together with any other document which might help his position. If labour inspectors do not find it valid, they can impose fines.

The amount of the fines range from € 500 to 50.000, depending on the importance of the offence and the size of the company but as long as there are no criteria specifying the exact amount for each offence, the size of the fine is decided by labour inspectors in cooperation with their chief. Offenders have the right to appeal to the court within 60 days.

Labour inspectors have also the power to sue the offenders to the penal court in case of serious offences, however and due to long delays of the court system in examining cases, inspectors rather prefer to impose fines.

6.3. The global economic crisis and its impact on the labour inspection system

In 2009 the government adopted a new law in order to increase the number of labour inspectors and their wages and to strengthen their powers and effectiveness.

As labour infringements and complaints have increased due to the crisis, the Greek government has tried to motivate labour inspector by granting them better salaries so that they are encouraged to increase the number of inspections; moreover and according to the new law labour inspectors are allowed to impose higher fines (up to €50,000 per offence instead of €500) to induce companies to comply with labour laws.

Aiming at increasing the effectiveness of the labour inspection the government has established anonymous public hotlines to record grievances, allowing workers to report any employment abuse in a simplified way.

Main concerns in day-to-day activity

Lack of staff is the main problem today in Greek Labour Inspectorate. One of the main reasons is the low wages of Labour Inspectors.

To fight this problem and increase their motivation, the national government has adopted new laws aiming at increasing the number of Labour Inspectors and their effectiveness during inspections.

These measures are too recent for an evaluation of their effectiveness.

Another problem is the absence of coordination between the different public administrations; for instance there is no electronic registry for enterprises at the Ministry of Employment and Social Protection while there is one at the Treasury and the Social Insurance Institution; there is no connection or cooperation between the two institutions so that labour inspectors do not have access to information of enterprises and must build up their own registries.

Main trends of labour relations have also an impact on labour inspections; the spread of flexible forms of employment and overtime due to the process of flexibilisation and relaxation of the legislative framework initiated by the authorities at the beginning of the 1990s has had consequences on the ability and the capability of labour inspectors to control both employment and working time; as a result, their activities on these issues are diminishing.

7. An overview of the Labour Inspectorate in Hungary

7.1. Legal framework

The Hungarian Labour Inspectorate (Országos Munkavédelmi és Munkaügyi Főfelügyelőség - hereinafter referred to as OMMF-) is regulated by the Act 75 of 1996 on Labour Inspection and the Government Decree No. 295/2006 on the Hungarian Labour Inspectorate; several provisions on the Act 93 of 1993 on Labour Safety apply too to the Hungarian Labour Inspectorate.

In June 2009, the Hungarian government amended several laws in favour of employers to tackle economic crisis, one of which was the Labour Inspection Act that was amended in such a way that, in some cases, OMMF has no longer the discretionary power to decide whether or not to impose a fine.

7.2. The organisation

The OMMF is a central body depending directly of the Minister of Social and Labour Affairs and from a global point of view it has the responsibility to carry out general inspections on occupational health and safety and working conditions and on labour issues with regards to private labour relationships (no competence is allowed to the OMMF concerning public administrations)

The OMMF is divided into:

- the headquarters (with nationwide competence) headed by a General Director.

The Deputy General Director is responsible for:

- the management of the regional labour inspectorates;
- the judgment of first instance appeals against administrative decisions;
- the preparation of necessary enforcement measures.

- seven regional inspectorates led by Regional Directors.

Inspectors in every local division are affected according to the issues subject to control:

- labour inspectors, in charge of the control of general labour conditions,
- occupational health and safety inspectors, in charge of health and safety issues.

In the framework of social dialogue a tripartite Council for the Support of Labour Inspection has been established to assist the Labour inspectorate by consulting it on current issues of labour inspection.

According to the last available ILO' statistics in 2008 there were 696 labour inspectors in Hungary, who have the status of civil servants.

Candidates must hold a degree either as a lawyer or an economic engineer or equivalence in academic or professional qualifications in labour relations, public administration or human resource development; OMMF has introduced a standardized system for educating and training labour inspectors at the end of which a final exam must be passed by the candidates.

Main tasks and issues

The scope of Labour inspectors' authority is regulated by paragraph 3 of Act LXXV of 1996 according to which Labour inspection main task is to control employers' compliance with the provisions figuring in the Law and in collective agreements on:

- working time (working hours, rest periods, extra working hours, paid leaves...);
- salaries and wages;
- posting, assignment, hiring-out of workers;
- work of women, young workers, disabled workers;
- equal treatment between women and men;
- anti-discrimination measures;
- work of foreigners;
- occupational health and safety;
- undeclared work.

Additionally, **Labour inspectors check the organization of trade unions and the respect of the protection' system of elected trade union representatives, members of workers' councils, civil servants' councils and health and safety representatives** (labour inspectors are in charge of checking whether the internal organisation of trade unions respects or not legal provisions)

The activity of Labour Inspectors includes also a large cooperation with other public administrations:

- the Labour inspectorate provides data on workers employed without valid contracts and non-registered workers to the National Employment Agency , at monthly intervals;
- joint inspections are carried out with other civil servants (Tax authorities, Police...)

The organization of inspections is based on:

- Regional inspection plans;
- Central inspection plans;
- Partner authority inspection plans;
- Information of other authorities;
- Complaints: any worker may submit a complaint, a request or another filing to the Labour Inspectorate in a written, oral or electronic way.

Labour Inspector's rights during inspection

According to Act 75 of 1996 on Labour Inspection and Act 140 of 2004 on the General Rules of the Public Administration Authority Procedure and Services, when carrying out their activities, labour inspectors are especially entitled to:

- enter any workplace to carry out an inspection and ask from police contribution when prevented from it;
- inspect registers necessary for the inspection, make copies and seize these for eight days;
- make sound and image recordings on issues related to the inspection;
- ask for information from persons at the workplace and establish their identities;
- use the employee's social security number.

Means of action of Labour Inspectors

The inspector' scope of competency depends directly of the type of violation detected by the agent:

- In minor cases, inspectors issue compulsory improvement notices or warnings drawing the employers' attention to the infringement and requesting them to rectify the violation within a deadline;

- Upon expiration of the allocated time, the inspector verifies whether the obligations indicated in the improvement notice have been fulfilled.
- In major cases of labour legislation violations, labour inspectors are entitled to suggest to the competent head of the regional labour inspectorate, the imposition of administrative fines (i.e. economic fines)
 - In fact Labour inspectors are obliged to propose fines for certain types of infringements.

The heads of the regional labour inspectorates impose fines following the suggestions made by the Inspector; the amount of the fine depends on:

- The number of employees concerned;
 - The type and number of statutory provision violated;
 - The duration of the violation;
 - The impact on the employees (loss of salary, exclusion of the employee's option to enforce claims, etc.) and the employee's efforts, if any, to eliminate the breach as soon as possible.
- In cases where fines have not been paid by the employers, inspectors have the power to initiate the collection of the overdue amounts and they can request for the assistance of the tax authority.

7.3. The global economic crisis and its impact on the labour inspection system

The available data reveal an increasing trend of the number of labour inspectors in Hungary; this fact implies that the economic crisis has not led the government to a reduction of Labour Inspectorate' staff.

The main impact of the crisis on the labour inspection system has concerned the independence and autonomy of their agents.

In fact in 2009 the Labour Inspection Act was amended in such a way that, in certain cases, OMMF has no longer the discretionary power to decide whether or not to impose a fine. Therefore and according to the new law, if OMMF discovers a labour law infringement mentioned in the act, it is mandatory to impose a fine on the employer (the reason why being the will of fighting fraud by imposing fines instead of a mere warning)

The labour law infringements listed in the act are the following ones: employment on bogus contracts; employment contracts with formal mistakes; use of undeclared work; lack of working time records or a violation of working time provisions if at least 20% of workers are affected; violation of special provisions on the employment of women, minors or people with disabilities; illegal temporary work agency activities; violations of pay provisions, if at least 20% of workers are affected; and violations of basic trade union and works council rights.

The question is whether this new provision complies with the provisions of the ILO Convention 81 on autonomy and independence of Labour Inspectors.

Main concerns in day-to-day activity

Main concern today for Labour inspectors is the lack of wide professional career possibilities which leads to a lack of interest in carrying out the work.

To cope with this, two actions are being implemented in order to guarantee the next generation leadership development:

- an EU financed leadership training programme,
- an internal coaching by the labour inspectorate.

8. An overview of the Labour Inspectorate in Italy

8.1. Legal framework

The Italian Labour Inspection is actually regulated by the Legislative Decree N°124 of 23 April 2004 on the measures of rationalization of the function of inspection and surveillance on social security and labour, the Ministerial Decree of 20 April 2006 (Code of Conduct for Labour Inspectors), the Legislative Decree N°81 of 9 April 2008 on health and safety at workplace and the Ministerial Directive of 18 September 2008 on the inspection and surveillance on social security and labour.

The 2004 legislation aimed to reform the labour inspection services, to improve coordination and information exchange between the various agencies involved, to emphasise the advisory and preventive role of labour inspectors and to strengthen the fight against undeclared work.

On March 2010 a new Law (the so-called “collegato lavoro”) was approved by the Parliament but the Italian President refused to sign it claiming that several articles were contrary to the Constitution principles and less protective for workers.

However a decree in 2011 (n° 70/11 (art. 7)) may weaken labour inspection services as it limits inspectors' autonomy and the possibility to intervene against tax evasion and undeclared work.

8.2. The organisation

The Labour Inspection depends on the Ministry of Labour and Social Policy, who determines the national priorities, provides guidance policies and establishes the financial and organisational criteria for inspections.

The Labour Inspection is structured as follows:

- The Direzione Generale dell'Attività Ispettiva, responsible for the planification, the coordination and the control of the activities carried out at regional and local level; this direction prepares also the annual program establishing the priorities for Labour Inspection system;
- a regional labour directorate (Direzione Regionale del Lavoro) for each region, in charge of the coordination and supervision of labour inspectors at provincial level; they are also in charge of issues of illegal work and forced and trafficking labour (including child labour);
- a provincial labour directorate (Direzione Provinciale del Lavoro) for each province. Each Direzione Provinciale del Lavoro includes:
 - A labour inspection service (servizio ispettivo del lavoro) with:
 - labour inspectors (ispettore del lavoro) to act on employment and labour issues,
 - technical labour inspectors (ispettore tecnico) specialized in occupational health & safety and prevention at the workplace.
 - A policy labour service (servizio politiche del lavoro), with a double function:
 - conciliation before referral to the court in case of litigation on employment issues
 - administrative authorization (on subjects as maternity leave, changes in working time...)
 - A legal dispute service (ufficio contenzioso legale) in charge of treating appeals by employers against administrative sanctions requested by labour

inspectors (penal sanctions proposed by technical labour inspectors goes directly to the criminal court)

A Tripartite Committee for the Support of Labour Inspection was established at the beginning of 1980s in order to assist the labour inspectorates; the most representative social partners (trade unions and employers' organizations) are represented in this committee and therefore they are informed and consulted on a regular basis on the different labour inspection programmes.

In 2009 there were 3 479 persons working for the Labour Inspectorate, distributed as follows:

- 3109 labour inspectors;
- 370 technical labour inspectors;
- 380 carabinieri.

Labour inspectors are civil servants and, in the exercise of their functions, have the same authority as judicial officers.

The degrees and qualifications needed to enter the Labour Inspectorate differ according to the post but in any case a training period is compulsory.

Main tasks and issues

The Labour Inspectorate operates throughout the national territory and it is competent in almost all private economic sectors (exceptions are the maritime and land transport, the quarries and mines, sectors with specialized control units depending on their own respective departments)

The Labour Inspectorate ensures the correct implementation of all labour and social security laws and regulations as well as the compliance with provisions issued from collective bargaining.

The Labour Inspectorate is also partially responsible for occupational health.

The scope of competencies of Labour Inspectors includes also the control of the application of labour laws in the public sector.

On a global basis the activity of inspectors can be carried out either according to the complaints received either according to the planning established by the hierarchy. The planning system has been modified in 2008 in order to increase cooperation with other control bodies; according to the new system, the Directorate General for the Inspection Activities collects the regional and provincial results of monitoring and planning, and afterwards sends out its programming circulars for the planning of inspection visits.

Labour Inspectors can carry out joint visits with other authorities (tax services...) and whenever there is a risk they can be assisted by the Carabinieri.

Whenever there is a control on a construction site, Labour inspectors are accompanied by a technical labour inspector in order to cover all issues of working conditions, including the security issues.

Labour Inspector's rights during inspection

The inspectors' scope of competency is regulated by the Legislative Decree No. 124 of 23 April 2004.

According to it and when carrying out a control the inspector is entitled to:

- have free access to the premises, buildings and rooms of the inspected entity;

- Inspections are done without prior notification and whenever needed, by day or by night.
- take volunteer statements from those who are working in the workplace;
- require all relevant documentation for the investigation;
- seek information from all public offices, labour consultants, employers and social security institutions.

Means of action of Labour Inspectors

The preventive role of Inspectors is stressed by the national legislation and therefore the main role of Labour inspectors is to control whether employers comply with the provisions of labour law or not.

Whenever there is non-compliance the labour inspector must take enforcement measures to make the employer return to a compliance situation; this is done via improvement notices pointing out the violation and allowing to the employer a deadline to put an end to the violation. Upon expiration of the allocated time, the inspector checks whether the obligations indicated in the improvement notice have been fulfilled or not; if not, the labour inspector submits the case to his/her superior.

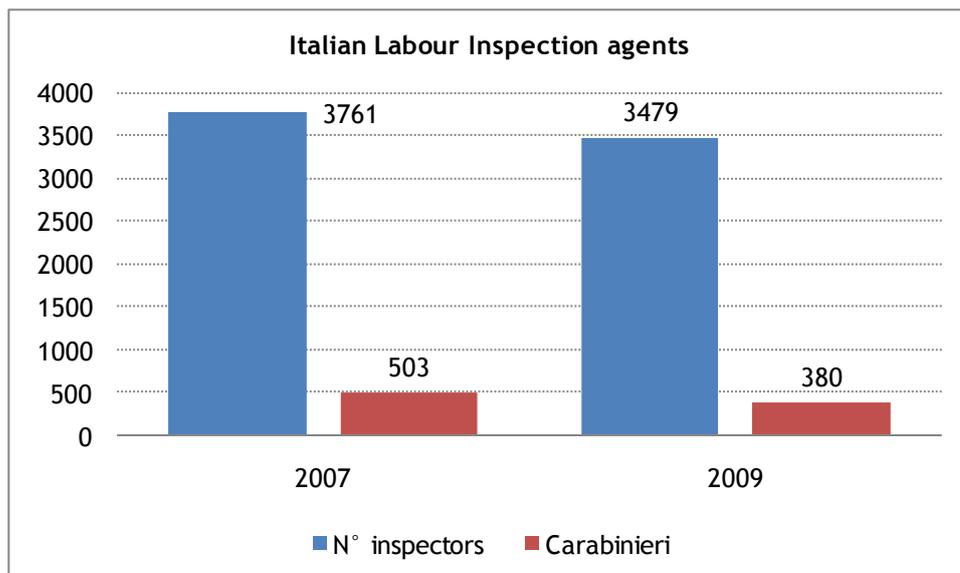
Labour inspectors are also entitled to order the immediate suspension of work according to article 14 of Legislative Decree N°81 of 2008 whenever there is a presence of undeclared workers equal or superior to 20% of all workers in the enterprise or workplace. This power applies to any economic sector and not only to construction sites (as it was the case before).

The non-compliance of the suspension is punishable with imprisonment of up to six months.

Labour inspectors can play also a role as a mediator or a conciliator in conflicts between workers and employers.

8.3. The global economic crisis and its impact on the labour inspection system

Italy, as was the case in Latvia, Romania or the UK, has been concerned by the national governmental plans aimed to reduce expenses and therefore there have been cuts in operational budgets and in the number of labour inspectors.



A collateral effect of the economic crisis has been the increase of undeclared work involving both national workers and foreigners “in irregular situation”.

Accordingly, one of the main priorities given to Labour inspectors has been to increase the number of controls aiming to “find” undeclared workers. As a consequence the number of enterprises inspected has been regularly decreasing since 2008 (-3,7% between 2008 and 2009) while the number of undeclared workers detected by labour inspectors is increasing (+2,8% between 2008 and 2009)

This priority can have a double negative impact with regards to labour inspectors and workers in general: to focus on undeclared work and to neglect other issues (as occupational health and safety) and utilisation of Labour Inspectors to implement a repressive policy towards foreigners.

Main concerns in day-to-day activity

- Italian Labour Inspectorate faces today several main problems:
- The number of civil servants :
 - on one hand a great deal of inspectors are in charge of administrative work and do not carry out any control activity;
 - on the other hand the number of Italian SMEs is very high so that each labour inspector controls a great number of enterprises.
- The lack of material resources :
 - Professional expenses not entirely reimbursed;
 - Low level of salaries ;
 - Lack of training of agents.
- The lack of cooperation of enterprises and the aggressions against Labour inspectors;
- New legislations aiming at protecting employers and neglecting workers so that legitimacy and capacities of labour inspectors are diminishing.

9. An overview of the Labour Inspection in Latvia

9.1. Legal framework

The framework establishing the Latvian Labour Inspection has been modified several times since 1993; today the legal status, function, tasks and the operational procedure of the Labour Inspection is defined by the Law on the State Labour Inspection (adopted on 19 June 2008)

9.2. The organisation

The Latvian Labour Inspection is an administrative institution supervised by the Ministry of Welfare; according to this status, the Labour Inspection is financed by the State budget.

The Labour Inspection is headed by the Director of the Labour Inspection and organised both at central and regional levels (5 Regional Labour Inspections all through the country) By the end 2009 the total number of labour inspectors was 117, out of them 74 women.

The main task of State Labour Inspectorate is to ensure effective implementation of State policy in the field of labour relations, employment legal relationships, labour protection and the technical supervision of dangerous equipment.

The areas under the scope of the Labour Inspection include:

- merchants, State and local government institutions, religious and public organisations;
- employers and their authorised persons, according to the duties and authorization entrusted to them;
- workplaces of undertakings (organisational units in which employers employ employees), as well as any other places in an undertaking that are accessible to employees during their work;
- dangerous equipment and possessors of such equipment are subject too to the supervision and control of the Labour Inspection.

Main tasks and issues

The main tasks of the Labour Inspection include:

- monitor and control observance of the requirements of regulatory enactments regarding employment legal relationships, labour protection and technical supervision of dangerous equipment;
- control how employers and employees mutually fulfill the obligations determined by employment contracts and collective agreements;
- promote co-operation between employers and employees;
- take measures to facilitate the prevention of differences of opinion between employers and employees;

- research matters of employment legal relationships, labour protection and technical supervision of dangerous equipment;
- carry out investigation of accidents at work and perform uniform registration thereof in accordance with procedures prescribed by regulatory enactments;
- participate in investigation of cases of occupational diseases in accordance with procedures prescribed by regulatory enactments;
- investigate accidents with dangerous equipment in accordance with procedures prescribed by the Cabinet;
- register dangerous equipment in accordance with procedures prescribed by regulatory enactments;
- issue permits for the commencement of operation of dangerous equipment;
- control work equipment at workplaces, the utilisation of personal and collective worker protection equipment, utilisation of substances harmful or dangerous to health, and the observance of technological processes in conformity with the requirements of regulatory enactments;
- as set out in regulatory enactments, carry out market supervision of equipment, workplace tools, and personal and collective worker protection equipment;
- provide free consultations to employers, employees and possessors of dangerous equipment regarding the requirements of regulatory enactments with respect to employment legal relationships, labour protection, and technical supervision of dangerous equipment;
- issue licences to legal persons who conduct training of employees regarding labour protection, the preparation of labour protection specialists, and raising of their qualification;
- organise the formation and ensure the operation of a national focal point for the European Agency for Safety and Health at Work.

The activities of the Labour Inspection are defined on the basis of the planning documents developed and approved at the national level on two main areas:

- illegal employment;
- labour protection.

“The plan of activities for 2005-2009 to reduce illegal employment” has been adopted in order to increase the administrative ability of the State Labour Inspection to decrease illegal employment.

“The Basic statements for the development of the labour protection domain for 2008-2013” intent to develop a legally organized, safe and health-friendly working environment at the enterprises, to reduce unregistered employment, the violations of normative acts in the sphere of labour law and labour protection, as well as the number of accidents at work.

At the core for the planning of the Labour Inspection activities is the principle of priorities. According to this, four main priorities have been brought forward for 2008-2013:

- the implementation of the policy aiming to reduce illegal employment;

- the organization of inspection campaigns at the enterprises working in branches with increased risk of accidents and occupational diseases:
 - the woodworking and furniture manufacturing branch;
 - the construction branch;
 - the public catering branch;
- the organization of the informative and inspection campaign of the Senior Labour Inspectors' Committee "Evaluation of the risks of chemical substances" within the framework of the European Union activities in the area of labour protection;
- the organization of "Risk Assessment", the informative campaign of the European Week.

The Labour Inspectorate publishes annual reports on changes in working conditions at workplaces: violations regarding legal relations between employer and employees, labour protection, supervision of dangerous equipment.

In 2009, 8 391 companies were inspected by the Labour Inspection, out of them 1 696 enterprises were inspected more than once a year.

A total of 4 996 inspections have been carried out with regards to the issue of illegal employment, which means that half of the inspections had to do with undeclared labour.

Means of action of Labour Inspectors

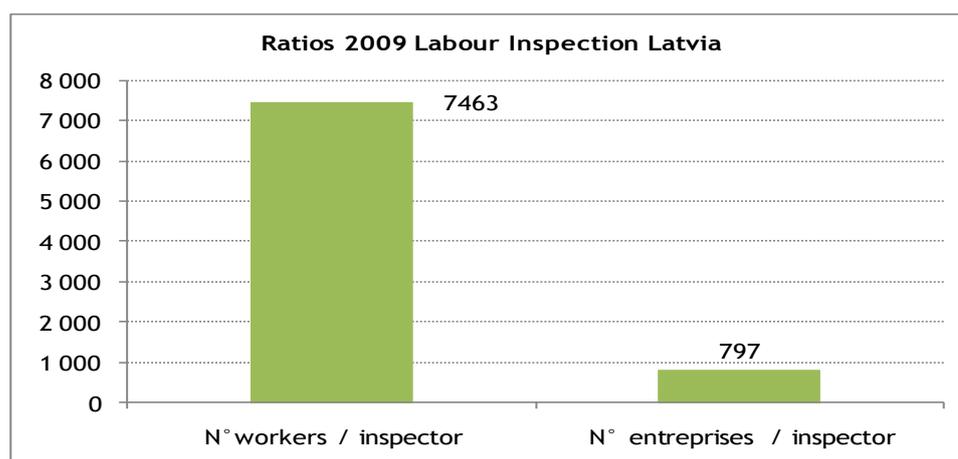
The State Labour Inspection is entitled to:

- review complaints;
- issue warnings and instructions;
- impose administrative (i.e. economic) fines;
 - administrative fines imposed by the Labour Inspection are included in the general revenue of the State basic budget.
- inform the prosecutor's office, state and local government institutions about violations of labour laws.

9.3. The global economic crisis and its impact on the labour inspection system

One of the main consequences of the global economic crisis on the labour inspection has been the reduction of the staff; in fact and due to the policy of reduction of state budget institution resources, in December 2009 the staff of the Labour Inspection have been reduced by 42 official work places; the number of labour inspectors has been reduced from 139 to 117. Due to this reduction several regional offices have been closed.

This staff reduction has concerned both the headquarters of the Labour Inspection (-25%) and the Regional Labour Inspectors (from -16% to - 18%)



Despite this reduction of the staff of the Labour Inspectorate the Ministry of Welfare and Labour is implementing since 2009 different campaigns aiming at:

- reducing the incidence of illegal employment by different means:
 - Information campaigns addressed to young people to let them know the advantages of a declared labour;
 - The identification on the Labour Inspectorate's website of the companies employing workers illegally;
 - The creation of anonymous public hotlines to record grievances permitting workers to report cases of undeclared work and other legal violations in a simplified way.

- reducing the increasing number of industrial accidents and occupational diseases.
 - One of the measures taken into consideration is the improvement of the legislation and the effectiveness of the State Labour Inspectorate.

Whatever the utility of both campaigns, an undeniable consequence is an increased workload for Labour inspectors, especially after the cuts in the Labour Inspectorate' staff.

An additional consequence of the economic crisis has been the modification of the types of sanctions imposed by Labour Inspectors.

In 2009, the structure of the administrative fines has undergone significant change as the amount of imposed warnings has grown by 77%; on the other hand, 1 881 administrative fines have been imposed to the employers for violations of the legislation on labour relations and labour protection; this is 37% less than in 2008.

In fact and due to the economic recession, inspectors are asked to impose administrative fines only when a direct threat to the life and health of employees can be established; otherwise priority is given to mere warnings in order not to cause prejudice to employers.

The question is whether this type of "recommendations" given to Labour inspectors complies with the provisions of the ILO Convention 81 on autonomy of Labour Inspectors.

10. An overview of the Labour Inspectorate in Poland

10.1 Legal framework

The National Labour Inspectorate of Poland (PIP) is ruled by the Act of 13 April, 2007 on the National Labour Inspectorate.

According to this legislation National Labour Inspectorate's activities cover all employers and entrepreneurs (i.e. people who are not employers, but have physical persons working for their benefit, irrespective of the reasons for that). The Act of 13 April 2007 enlarged the scope of the PIP to the work of foreigners. From 1st July 2007 PIP also control the so-called self-employed persons.

10.2 The organisation

The PIP is the public authority established to supervise and control the compliance with labour law, in particular occupational safety and health rules, as well as regulations concerning the legality of employment and any paid work.

The PIP is subordinated to the Lower Chamber of the Polish Parliament (Sejm). The supervision over the Inspectorate is exercised by the Labour Protection Council.

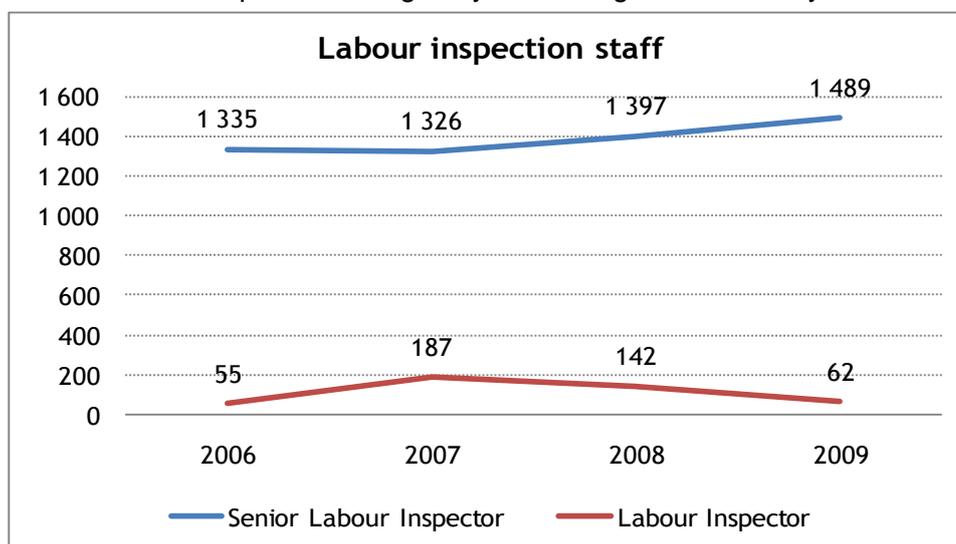
The PIP is organised as follows:

- the Chief Labour Inspectorate,
- sixteen District Labour Inspectorates further divided into forty three sub-district offices. The district inspectors manage the work of the district inspectorates and supervise the activity of the field labour inspectors.

Furthermore there are several counseling or training bodies inside the PIP:

- Chief Labour Inspector's Board,
- Chief Labour Inspector's Legal Commission,
- Chief Labour Inspector's Commission for occupational health and safety in Agriculture,
- Chief Labour Inspector's College,
- the Jan Rosner's National Labour Inspectorate Training Centre.

The number of Labour Inspectors is regularly increasing from several years now.



Labour inspectors relationship with the PIP is concluded on the basis of a nomination, preceded by a contract of employment for a specified period of time, no longer than 3 years. Prior to the nomination candidates must participate in a preparatory training and go through a state exam before the examining board nominated by the Chief Labour Inspector; in some cases, justified by qualifications or professional experience, the Chief Labour Inspector may nominate directly Labour Inspectors.

Labour Inspectors are subject to periodic qualification assessments (at least once in three years) made by his/her superior, who informs the employee of the contents of the qualification assessment.

Different reasons may lead to the termination of the relationship between the Labour Inspector and the PIP:

- receiving a negative qualification assessment, confirmed by a repeated assessment with negative results, which may not be made earlier than after a three-month period;
- liquidation of the National Labour Inspectorate's organisational unit or its reorganisation, if it is impossible to transfer the employee to some other post in the same unit;
- loss, not of one's own fault, of powers required to perform work in the post held, if there is no possibility to offer the employee a job in some other post adequate to the possessed qualifications;
- failure to give a guarantee of proper execution of official duties;
- criminal proceedings which have been underway against the employee for a period longer than three months;
- loss of physical or mental ability to work in the post held, confirmed by a certificate from the certifying physician of the Social Insurance Institution, if there is no possibility to engage the employee in another post, suitable to the employee's state of health and professional qualifications, or when the employee refuses to accept such work;
- being aged 65, if the period of employment enables the employee to have the right to old-age pension.

Main tasks and issues

The main tasks of the PIP are:

- Supervision and control of the labour law compliance by enterprises, self employed persons (mainly with regards to occupational health and safety issues) **and the public administration** (for instance in 2009 inspections have been carried out in entities subordinate to the Ministry of National Defence, the Ministry of the Interior and Administration, the Police, the Internal Security Agency, the Border Guards or the Prison Service)
 - This includes occupational safety and health rules and regulations, provisions concerning an employment relationship, remuneration and other benefits resulting from an labour relationship, working time, holidays, employee rights connected with parenthood, employment of young people and disabled persons.
- Inspection of legality of employment, other remunerative work, conducting economic activity (by the Polish but also foreign citizens);
- Taking actions aimed at preventing and eliminating hazards in the working environment,
- Analysis of causes and circumstances of labour accidents and occupational diseases, as well as the control of the implementation of preventive measures
- Providing advice and information on labour law and occupational health and safety;
- Cooperation with bodies for environmental protection;
- Issuing opinions on draft legal acts in the area of labour law;

- Lodging complaints and, following the concerned person's consent, participation in legal proceedings for the establishment of an employment relationship before Labour Courts;
- Cooperation with other European Union Member States' authorities competent for the supervision of employment and working conditions;
- Prosecution of workers' rights violations stipulated in the Labour Code and other acts, as well as participation in the legal proceedings concerning such
- violations, acting as a public prosecutor

In order to organize the activity of its agents, the PIP sets out annual, as well as long-term (3-year) plans; these plans are subject to a review by the parliamentary State Inspection Commission.

The current long-term agenda (2010-2012) focus on:

- construction (aiming at decreasing the number of work-related accidents by 25% and promoting safety standards in construction works),
- road transport,
- activities with the highest risk of work hazards.

Labour Inspectors cooperate with social partners in different ways and mainly according to the agreements signed between the PIP and social partners: in 2004 with the Confederation of Polish Private Employer and in 2007 with the 3 main trade unions confederation (Solidarnosc, OPZZ, FZZ).

The collaboration with the trade unions consists mainly in promotional activities of the PIP as well as training provided by Labour Inspectors for trade unions members and social labour inspectors; the collaboration with the employers is also mainly based on training.

On the other hand, trade unions and employer organisations, but also other social organisations dealing with the topic of labour security, propose their candidates to the aforementioned Labour Protection Council – the authority supervising the works of PIP and each year, the All-Poland Alliance of Trade Unions (OPZZ) reviews the annual Chief Labour Inspector's Report on PIP's activities.

Finally when carrying out its assignments, PIP cooperates with the public employment authorities and state administration authorities, in particular with authorities in charge of the supervision and inspection of working conditions, construction supervision authorities, the Police, the Border Guard, customs authorities, tax authorities, the Social Insurance Institution and local self-government authorities.

Labour Inspector's rights during inspection

Labour inspectors are authorised to carry out inspections to check the compliance of enterprises with the labour law provisions without previous notice at any time of the day or by night

During inspection activities, labour inspectors are entitled to:

- free access to the premises, buildings and rooms of the inspected entity;
- conduct inspections of buildings, rooms, workstations, machinery and equipment as well as technological and working processes;
- demand from the entity under inspection, and from all of its employees and persons who are or used to be employed or who perform or used to perform work for the benefit of the inspected entity on grounds other than an employment relationship, including persons performing economic activity on their own account, written and oral

explanations in relation to matters covered by the inspection as well as to summon and interrogate such persons in connection with the inspection;

- demand the presentation of documents related to construction, reconstruction or modernisation and start up of an establishment, technical plans and drawings, technical and technological documentation, results of expertises, examinations and measurements concerning production or other activity of the inspected entity, as well as to be provided with samples of raw materials and components used, manufactured or generated during production processes, in the amount necessary to make analyses or examinations in case they are related to the inspection underway;
- demand the presentation of personal files and any other documents connected with work performed by employees and other persons performing work on grounds other than an employment relationship;
- become acquainted with decisions issued by other authorities competent for supervision and inspection of working conditions and their effects;
- record processes and results of inspection with sound or image recording equipment;
- make copies or extracts of documents indispensable for inspection, as well as comparisons and calculations based on documents, or if necessary demand them from the inspected entity,
- check the identity of persons executing work or staying on premises of the inspected entity, interrogate them and demand statements with regard to legality of employment or performance of any other paid activity;
- resort to the assistance of surveyors and experts as well as accredited laboratories.

Duties

Labour Inspectors are bound to respect some principles:

- not to disclose any information obtained when performing official duties,
- not to conduct any political activity,
 - Anyone being candidate in political elections is granted unpaid leave for the time of an election campaign.
- Not to undertake any paid work without the prior consent of the Chief Labour Inspector.

Means of action of Labour Inspectors

In 2007-2008 major changes took place with regards to the scope of activities of the PIP; the new Act on the National Labour Inspectorate granted additional powers to Labour Inspectors and hardened penalties in case of violation of labour laws.

The powers of PIP inspectors, in particular, include:

- Issuing orders to eliminate, within imposed time frame, any identified violations of work safety and health rules;
- Issuing orders to suspend works or activity (if there is a direct risk to life or health of workers);
- Issuing orders to transfer to other work those employees lacking qualification to perform hazardous work or unable (by law) to perform it;
- Issuing orders to suspend operation of machines and devices when such operations implies direct risk to life or workers'health;
- Investigate the circumstances and causes of occupational accidents;
- Issuing orders for employers to settle any payables due to workers (immediate execution is requested);
- Imposing fines in the form of penalty tickets and submitting motions for penalty to courts.

The global economic crisis and its impact on the labour inspection system

The Act from 1 July 2009 on ameliorating the effects of economic crisis on workers and employers (shortly termed 'the anti-crisis act') has introduced regulations aimed at easing the functioning of employers in the face of prevailing economic crisis – without having them to resort to staff lay-offs. The act grants the option to temporary exercising of legal measures trimming the employee rights (until the end of 2011).

In relation to the introduction of this act, PIP has been empowered to carry out inspection and supervision assignments to secure observance of this law. In such circumstances, PIP inspections:

- investigate whether employee rights – affected by the provisions of the anti-crisis act - have not been violated;
- assess the functioning of the new regulations in practice.

Inspections, first and foremost, concern:

- employers in temporary financial distress;
- employers who have exercised the option, granted by the act, to extend the financial reporting period;
- companies, for which there is a suspicion (based on media signals and employee complaints) that workers' rights are being violated.

With respect to passing the anti-crisis regulations, PIP has also been responsible for running an information campaign.

Main concerns in day-to-day activity

- Three main issues are a matter of concern for Labour inspectors:
 - Occupational health and safety

Due to an increased rate of accidents in the recent years, PIP deemed it important to focus its activities more on the problem of occupational health and safety, in particular with respect to existing labour hazards and causes of accidents at work.

In its agenda, PIP turn special focus to small-sized production sites, with numerous risks and high frequency rate of occupational accidents.

PIP inspectors insist on the need to intensify preventive and promotional activities relating to labour security in rural areas.

- Legal framework

Legal environment in Poland is not viewed as supportive to carry out the tasks of the Labour inspectorate. The procedure of documenting an inspection, as well as legal requirements needed to undertake it, need to be simplified. Instead of noting down short descriptions of identified discrepancies, a Polish inspector is forced to fill in elaborate protocols. Time devoted for a single inspection is thus much longer than is the case by corresponding authorities in Western Europe (e.g. in Portugal or Ireland).

Empirical evidence gathered by PIP with respect to inspection and post-inspection activities lends some practical data to the analysis of the legal provisions en force. Imminent amendments in many legal acts need to be addressed. In particular, the Labour Code, the Act on the National Labour Inspectorate and the Act on the promotion of employment and labour market institutions, all need an update.

According to PIP, numerous labour law regulations are vague, incoherent and, hence, cause a lot uncertainty, burdening the day-to-day activities of labour inspectors. Among the provisions of particular concern a major one: regulations on work time, on safety and health

at work, and on legality of employment (including employment of foreigners), as well as regulations addressing the powers of inspectors and their possible actions with respect to discovered violations.

Translating the amendments proposed by PIP into common law by the Lower Chamber of the Parliament not only will facilitate smoother and more effective enforcement of obligations concerning inspected entities, but will also lessen the intensity of supervision activities, for still a lot of abnormalities stem from vague interpretations of the law. Correcting the regulations would help PIP focus more on those areas and sectors, which require the most attention

- Cooperation with other public services

PIP is the sole state-level authority to inspect and supervise the observance of Labour law and occupational health and safety provisions in a complex manner.

Despite an increase in the number of reports on alleged breaching of the law, directed by the Labour inspectors to the prosecuting authorities, the public prosecutors have now been discontinuing trials and declining to institute proceedings more often than was the case in the previous years. Labour inspectors call for sterner attitude on the side of the Police, public prosecutors and courts, in order to be able to improve the situation of workers and increase work safety.

11. An overview of the Labour Inspectorate in Romania

11.1. Legal framework

The Labour Inspectorate ("Inspectia Muncii") is a body of the central public administration having legal personality. The institution is founded and organized on the basis of:

- Law no. 108/1999 (republished)
- Decision of Government n°767/1999 (with subsequent changes and amendments)

The Labour Inspectorate has broad prerogatives to ensure compliance with employment regulations in **all types of organisations, irrespective of ownership – public, private or mixed-**.

11.2. The organisation

The Labour Inspectorate is under the supervision of the Minister of Labour, Social Solidarity and Family.

The headquarters of the Labour Inspectorate are located in Bucharest and there are a number of subordinated bodies:

- 41 Territorial Labour Inspectorates, in every county (judet) and in Bucarest;
- The Center for Monitoring Units with Professional Risk (located in Criscior);
- The Center for Professional Induction and Training of the Labour Inspectorate (located in Botosani).

The staff of the Labour Inspectorate and territorial inspectorates is composed of:

- labour inspectors:
 - labour inspectors represent one half of the total number of employees in the labour inspectorate,
 - among the total number of labour inspectors, one third is responsible for issues related to occupational health and safety, while two thirds are responsible for issues related to work relations.
- social inspectors,
- other categories of personnel for other activities (financial, HR, internal audit, IT, communications, juridical and administrative affairs)

Out of the total number of employees, less than 200 persons are working at the central level, the others being employed in regional inspectorates.





Main tasks and issues

The main goal of the Labour Inspectorate is to verify whether employers (either public or private) comply with their obligations in labour relations, including labour conditions, life protection, corporal integrity and health of employees and any person participating in the labour process.

The regular activities of Labour Inspectorate aim to:

- identify, assess and undertake measures to restrict undeclared labour;
- counteract illegal use of labour force through penalties and prevention measures;
- encourage legal employment;
- provide assistance to employers and employees on issues related to labour relations and legislation.

Labour inspectors carry out around 180 000 controls per year, out of them around 100 000 on labour relations and around 80 000 on health and safety at work.

In 2010, the Labor Inspectorate has undertaken 46 broad actions, in the following areas:

- 2 European campaigns (on evaluation of chemical risks in selected workplaces and a week of activities related to the prevention of risks in maintenance works);
- 15 National campaigns, amongst which:
 - Action Plan on evaluating risks for SME;
 - promoting best practices in security and health at work, with special focuses on medical laboratories, agriculture, horticulture and education;
 - control of measures for improving working conditions in constructions;
 - inspections on the usage of work equipment for the transport of passengers and dangerous substances;
 - controls on the coordination of preventive and protection measures undertaken by companies that have workers employed by other companies or independent workers;

- monitoring of the implementation of European legislation on issues related to security and health at work;
 - identifying and counteracting undeclared work;
 - prevention and counteracting child work.
- 10 broad actions on security and health at work;
 - 8 broad actions on labour relations;
 - 8 broad actions on social assistance and inclusion;
 - 3 professional trainings of the labour inspectors.

Means of action of Labour Inspectors

In order to fight discovered irregularities, labour inspectors can use the following legal measures:

- measures (included in the control report), in order to exclude the detected irregularities, with clear terms of implementation and reporting;
- administrative sanctions (included in the report on finding and sanctioning of contraventions), that could be in the form of warnings or administrative fines.
 - Depending on the nature and severity of the infringement, the labour inspectors could apply one or multiple complementary administrative sanctions, such as: cancellation of the authorization or the withdrawal of the given approval, immediate suspension of the work processes when a state of imminent threat of injury or disease is found.
- referral to criminal prosecution authorities in cases covered by criminal law.
 - Labour Inspectors do not have criminal prosecution competence, but can address issues to other authorities
- request deletion of the legal person from the Trade Registry, when the employer repeatedly commits serious violations of the labour legislation or of the rules of health and safety at work.

11.3. The global economic crisis and its impact on the labour inspection system

The Romanian Labour Inspection system has been strongly hit by the austerity measures implemented by the national government to face worldwide economic crisis.

A first measure was already taken in August 2009 when the Government announced the merger of the Labour and the Social Inspectorates to justify a staff cut of 20% (prior to the merger the Labour Inspectorate had 4 205 posts and the Social Inspectorate had 290 posts, so a total of 4495 posts).

The merger was strongly criticized by main trade unions confederations; Cartel Alfa (CNS) opposed the intention of the Government, arguing that “by merging it with the Social Inspectorate, the Ministry of Labour has the intention to practically annihilate the Labour Inspectorate”.

The trade union pointed out also that the Labour Inspectorate had already at that time insufficient human and material resources according to reports from the International Labour Organization (ILO) and the European Union (EU). Afterwards Cartel Alfa was firmly opposed to job cuts in the new Inspectorate created after the merger.

Despite this strong opposition, the Romanian government by Decision n° 68/2010 materialized its intentions and suppressed 808 jobs in the Labour Inspectorates (that means

22% of the total staff, more than initially planned); this cut was the largest among the cuts done in the institutions under the responsibility of the Minister of Labour, Social Solidarity and Family.

The government went further one year later; on July 2010, the Government approved a new decision on the reorganization of the Ministry of Labour, Family and Social Protection. Accordingly, the personnel of the Ministry and related services will be reduced by 19% (from 13357 to 10828 employees); the impact for the Labour Inspection was significant once more: an additional 4,5% reduction so that the Labour Inspection employed 3 236 persons by the end of 2010.

This new reduction has been criticized by Labour inspectors themselves; they argue that they lack of workforce and say that it is increasingly difficult to comply with the number of controls the Inspectorate has pledged to undertake under a memorandum signed with the European Commission.

Moreover and due to the crisis and the subsequent restructuring process in the enterprises the workload of Labour inspectors has increased considerably; this workload impacts too the public who “have to queue for a long time in order to submit necessary documents” because Labour inspectors are no longer available.

There is a general consensus that “A further cut in jobs will make things even more difficult”.

One immediate consequence of the staff’s reduction is the subsequent diminution of the actions planned by the Labour Inspectorate.

As a proof of this reality the list of planned activities for 2011 contains only 21 broad actions (that means twice less than in 2010!); the activities include:

- one European campaign coordinated by a committee of high ranked inspectors;
- 12 National campaigns, amongst which :
 - Action Plan on evaluating risks for SME;
 - promoting best practices in security and health in SME;
 - monitoring of the implementation of European legislation on issues related to security and health at work;
 - market supervision in accordance with the sectoral program for 2011;
 - control of measures for improving security and health in constructions and transport of passengers and dangerous substances;
 - identifying and counteracting undeclared work;
 - prevention and counteracting child work; control of temporary employment agencies;
 - control of compliance with the legislation on protection and promotion of disabled persons.
- 7 broad actions on labour relations;
- One professional training of the labor inspectors

Other changes are expected to take place in next years but mainly aiming at de-bureaucratizing Labour Inspectorate.

As a matter of fact some territorial Labour inspectorates had asked the Government to adopt decisions in order to limit the paperwork and keep most of the documents only in electronic format; actually one labour inspectorate has around one thousand individual work books, with attached work contracts and additional acts and daily, some 50-60 additional documents in paper format are registered by a territorial labour inspectorate.

Answering to this demand, recently the Ministry of Labour has announced that it is working on a draft project for de-bureaucratizing territorial Labour inspectorates. The project intends to modify the Law 130/1999, in order to diminish the number of documents that must be submitted by employers (function, payment statistics and many other forms).

Main concerns in day-to-day activity

Labour inspectors are greatly worried about their future and their working conditions and they let it know via trade union confederations.

Labour inspectors have the right to affiliate to trade unions and in fact most of them are affiliated to the National Trade Union of Civil Servants, affiliated to the Trade Union Confederation Cartel Alfa.

In a recent intervention addressed to the chief of the Labour Inspectorate, the National Trade Union of Civil Servants expressed its worries with regards to the attitude of the press and some politicians towards labour inspectors, who are often blamed as being corrupt and dishonest.

They also pointed out that frequently labour inspectors carry out their controls using private vehicles or public transportation, which is incompatible with their responsibilities.

Moreover, the trade union estimates that labour inspectors are vulnerable to intimidations from employers and are not protected by measures that would ensure their physical and psychical integrity.

The reason why is that the sanctions applied by labour inspectors can be high (thousands of euros) and in many cases labour inspectors are threatened or even physically assaulted.

For all these reasons, the trade union:

- requires the modification of the Law n°108/1999 on the organisation and functioning of the Labour Inspectorate and the creation of a special Statute of the Labour Inspector, providing clearly specific rights and obligations and taking into account the risks and the complexity of their activity;
- a meeting with the highest level of the Labour Inspectorate in order to discuss the establishment of consistent criteria to:
 - objectively examine and implement the distribution of material and moral incentives, excluding any form of discrimination with regards to other public administrations;
 - comply to the principle of equal treatment between men and women in the institutional system of the Labour Inspectorate.

12. An overview of the Labour Inspectorate in Russia

12.1. Legal framework

The Labour inspection is regulated by the Labour Code of the Russian Federation, the Order on the Federal Labour and Employment Service and other federal laws and normative acts related to labour issues.

12.2. The organization

The Federal Labour Inspection (the "Rostrud") is the Russian regulator in charge of supervision and control over employers with regards to their compliance with Russian labour legislation; on the contrary the Rostrud has no power to check compliance with legislation on public administrations.

One specific characteristic of the Russian Labour Inspectorate is that it plays an important role not only in supervising and controlling the respect of labour legislation, but is also the body responsible for the implementation of the state policy for employment.

Rostrud is supervised by the Ministry for Health and Social Development.

There are Rostrud's offices in 82 provinces of Russia.

Competences of the Federal Labour Inspectorate

According to article 353 of the Labour Code of the Russian Federation "the implementation of state monitoring and control over the observance of legal acts containing labour law regulations is the obligation of the Federal Labour Inspectorate".

In particular, Rostrud is entitled to:

- exercise control over observance of labour legislation by employers; investigate cases of administrative violations; analyse the circumstances of discovered violations; take measures to eliminate violations and restore violated rights; generalize the practice of application; analyse grounds of violations of labour legislation and prepare respective proposals for their improvement as well as forward the respective information to state and municipal executive authorities, law enforcement agencies and courts;
- exercise control over observance of employees' rights when conducting investigations of occupational accidents; participate in investigations of occupational accidents and conduct such investigations independently; exercise control over receipt by employees of funds under mandatory social insurance against occupational accidents and diseases as well as assign and pay out benefits for temporary disability at the expense of employers;
- receive and review applications and other appeals from citizens regarding violations of their labour rights; take measures to eliminate discovered violations and restore violated rights;
- review proceedings on administrative offenses in accordance with the legislation of the Russian Federation;
- inform and consult employers, employees and the public on issues of respect of labour legislation.

Furthermore and according to the article 216.1 of the Labour Code of the Russian Federation, the Federal Labour Inspectorate, jointly with executive labour protection

authorities, conducts state inspections of working conditions. The objective of a state inspection of working conditions is to monitor the quality of workplaces and working conditions, the correctness of granting compensation to employees for arduous work and work in hazardous and dangerous conditions, as well as the compliance of construction and reconstruction projects for industrial facilities and introduction of new technologies with the state requirements for labour protection.

The origin of interventions of Labour Inspectors can be:

- scheduled inspections (once every two years) – about 1% of all cases according to the figures of the Federal Labour Inspectorate -
- reasonable decision of the Federal Labour Inspectorate (e.g. if many offenses have been revealed as a result of inspecting a company belonging to a certain industry, other companies in the same industry may be inspected) – about 4% of all cases -
- complaints of employees (those currently employed, those who have been dismissed, as well as individuals who were refused conclusion of an employment contract on the grounds of the results of an interview) – about 95% of all cases -

Rostrud receives about 120 000 complaints per year.

The inspectorate will receive complaints from any worker, regardless of citizenship, in person, by mail, or via the internet, and there is no statute of limitations for filing a complaint.

However, Rostrud has the authority to carry out full investigations into complaints only when the existence of labour relations has not been contested, for example, if a written employment contract has been signed. The agency does not have the authority to investigate cases in which labour relations are disputed, as happens very often in cases when no contract or a retainer contract (the typical legal document for services, contractual work, etc.), or only an oral agreement exists between the parties.

In the absence of an employment contract, workers must appeal to a local court in order to establish whether official labour relations de facto existed between the worker and employer.

Labour Inspector's rights during inspection

For exercising the given powers and according to article 356 of the Labour Code of the Russian Federation, state labour inspectors are granted a number of rights:

- to visit enterprises of any ownership form (public or private) and at any time;
- to request from employers any information necessary for control and monitoring;
- to sample materials and substances used in industrial processes for analysis;
- to conduct investigations of occupational accidents;
- to give employers binding instructions on remedies for breaches of labour legislation and prosecution of those responsible;
- to forward a demand to a court for the liquidation of organizations or their structural divisions;

- to initiate proceedings on administrative liability of individuals in breach of labour legislation as well as submit documents to law enforcement authorities for the criminal prosecution of these individuals.

Means of action of Labour Inspectors

In most of the cases, employers are liable for:

- breach of labour and labour protection legislation;
- refusal to participate in negotiations concerning the conclusion of a collective agreement and failure to provide information required for conducting collective negotiations;
- unjustified refusal to conclude a collective agreement;
- failure to fulfill obligations under a collective agreement;
- dismissal of employees due to collective labour disputes or for calling for strike;
- breach of rules on employment of foreign employees.

According to the article 5.27 of the Code of Administrative Offences of the Russian Federation and whenever there is a violation of labour law, Labour Inspectors can impose fines in amounts ranging from 5 to 50 minimum wages.

Moreover the discovery of further offenses may entail the imposition of sanctions in the form of prohibition from occupying certain posts for a term ranging from one to three years.

12.3. The global economic crisis and its impact on the labour inspection system

Russian Labour Inspectorates were not subject to austerity measures in recent years. However, their activities weakened in 2010 compared to 2009, as proven by the following facts and figures:

- In 2010, the territorial bodies of Rostrud carried out around 183.400 controls, compared to 217.800 thousand controls in 2009.
- The number of disclosed irregularities in 2010 was of 99.200 compared to 134.800 in 2009.
- In 2010, the value of imposed fines was of €13.4 M, compared to €14.1 M in 2009.
- The number of disclosed irregularities related to compliance with the legislation on remuneration of labour was of 1408 in 2010, compared to 1908 in 2009. As a result of the disclosed infringements last year, more than half a million employees received unduly retained salaries for a total amount of €200 M.

In 2010, 370.000 persons were given personal audience, compared to 420.000 persons in 2009.

- The number of clarifications and consultations offered to employers and employees was of 353,000 in 2010, compared to 378,000 in 2009.

On the other hand, the Rostrud has also intensified in 2010 its activity as body responsible for the implementation of the state policy for employment:

- the central bodies of the inspectorate have carried out many planned and unplanned documentary and on-ground controls of the fullness and quality of the implementation of regional activities.
 - In 2007-2008 Rostrud performed 39 inspections on 39 regional executive bodies and 228 centers for the employment of population, which resulted in 561 detected infringements and 109 prescriptions; in 2009 and during the first 11 months of 2010 the central inspectorate has performed 65 inspections on 62 regional executive bodies and 491 centers for the employment of population, which resulted in 4 072 detected infringements and 423 prescriptions.
- In 2010, Russian Government mandated Rostrud with anti-crisis measures in the field of labour and employment:
 - Federal financing for labour market stabilization (1.1 billion €);
 - Development and adoption of regional programs valued at more than €0.95 billion;
 - Co-financing of regional programs from federal and regional budgets;
 - Creation and promotion of the web portal “Job in Russia”.

Rostrud has formulated the following anti-crisis measures in the field of employment promotion and labour rights protection:

- formulation of proposals for introduction of amendments to employment law;
- increase in control over regional programs implementation, cost effective and appropriate expenditures of funds;
- timely development and adoption of regional programs aimed to ease labour market strains in regions of the Russian Federation for 2010;
- employment protection in municipalities with an economic mainstay;
- employment opportunities and internships for graduates;
- monitoring of causes and conditions of social tensions at work in order to rectify labour law breaches in proper time providing the fullest information on governmental anti-crisis measures implementation to the public.

Finally and in order to increase the effectiveness of supervisory-control activities in the areas of labour and employment, Rostrud has focused its activities on the implementation of the administrative reform and agreements on cooperation on the basis of multi-functional centers have been signed with 36 entities of the Russian Federation.

Perspectives for 2011

The activity of Rostrud in 2011 should be as intense as in 2010 with an emphasis to be put on the control of self-employment, employment of disabled people and of women after maternity leaves, training and requalification, and material support for people that have to relocate in order to be employed.

This high activity demands a lot of efforts to Russian Labour Inspectors as long as one of the major problems faced by the labour inspection is the low number of labour inspectors, especially given the low legal literacy of employers and the highly frequent infringements of the labour legislation.

According to trade unions the number of labour inspectors should be at least doubled in order to be really efficient.

Actually a new concept of the Labour Code is under discussion and enhancements or contractions of labour inspection's competences are possible.

One of the possibilities under discussion is to enlarge the scope of competences of Rostrud to allow labour inspectors to investigate complaints of any labour law violations, including wage violations, even in cases in which there is no written employment contract; if it is the case adequate training and resources for Rostrud staff to conduct these investigations.

13. An overview of the Labour Inspectorate in Spain

13.1. Legal framework

The Spanish Labour and Social Security Inspectorate (LSSI) is regulated by:

- The Law 42/1997 (November 14th) on the Labour and Social Security Inspectorate,
- The RDL 5/2000 (August 4th), enforcing the Law on Labour Infringements and Sanctions,
- RD 138/2000 (February 4th) enforcing the Regulations on the Organisation and Functioning of the Labour and Social Security Inspection,
- RD 928/1998 (May 14th) enforcing the General Regulations on the procedures aiming at imposing sanctions following labour and Social Security infringements.

A major modification on the structure of the LSSI took place in 2010; on February 2010 and by means of RD 206/2010 it has been acted the transfer to the Government of Catalonia of the functions and services of the Labour and Social Security Inspectorate.

13.2. The organisation

The LSSI is the public entity in charge of the control of the compliance with labour and social security legislation. It is under the supervision of the Ministry of Labour.

There is a central Authority in charge of the management, coordination and assessment of the activities and functioning of the LSSI.

At territorial level, the Labour Inspectorate is organised at province level so that in each province (there are 52) there is a Labour inspection under the organisational direction of a Labour Inspection Chef.

On the other hand, Spain is divided in 17 regions (Autonomous Communities –CCAA) and most of them have broad competencies on labour issues.

According to the principle of a unique and integrated Labour Inspection system but also according to this political and regional organisation, the actual model of Labour Inspection is based on the institutional cooperation between the central government and the CCAA.

This cooperation is articulated through:

- The Sectoral Conference on Labour Issues (all CCAA and the General State Administration)
- Territorial Commissions (at CCAA level)

The Autonomy Laws of different CCAA contain provisions on the transfer of Labour Inspectors to the CCAA.

The first experience on decentralisation and transfer of the Labour Inspection Services took place in 2010.

The RD 206/2010 (February 26th) regulates the transfer to the Government of Catalonia of the functions and services regarding the LSSI. According to this regulation, the government of Catalonia, within its territorial and material scope of competences, is entitled to exert all the powers entitled to the Labour and Social Security Inspections, including:

- The control on the compliance with legal provisions and legal provisions on collective bargaining with regards to working organisation, social dialogue, occupational health and safety and prevention, employment, migrant workers...;
- Technical assistance to enterprises, workers and Public Administrations;

- Arbitration, conciliation and mediation on collective conflicts and strikes whenever there is a demand or an agreement of the parts involved.

The transfer has been done according to several principles:

- A single and integrated Labour Inspection System;
- The unity of functions and activities of labour inspectors;
- Effectiveness when carrying out their tasks.

According to these principles the Labour and Social Security Inspectors and sub-inspectors can carry out their tasks and missions with regards to any social and labour issue whatsoever the administration competent on the issue.

The scope of competences of the Labour and Social Security Inspection

The scope of competences of the LSSI includes:

- Any enterprise, workplace or place where a labour relation is established, including the Public Administrations when there is a labour relation and not a civil service relation between the Administration and the worker;
- Any vehicle or means of transport where a work is performed (boats, planes and their auxiliary premises);
- Ports, airports, vehicles and arriving and depart points with regards to migration movements;
- The enterprises and entities intervening in the management of the Social Security;
- Any public or private entity cooperating with the public Administration on social protection and promotion;
- Cooperatives with regards to their establishment and functioning.

Some workplaces or enterprises are out of the scope of the LSSI and their control is devoted to other entities or organisms (mines, enterprises producing, manipulating and conveying explosives)

Recent evolutions of the Labour and Social Security Inspection

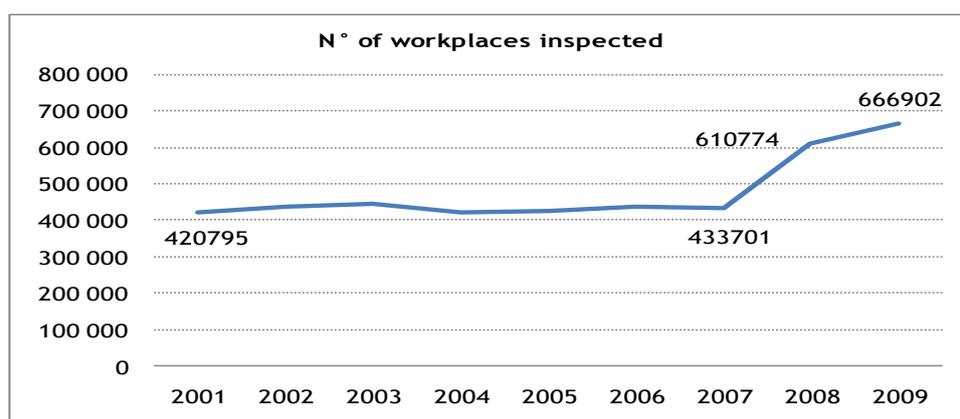
In 2004, the social partners pointed the weakness of the Labour and Social Security Inspectorate arguing that:

- the inspection failed to take sufficient account of the demographic and productive changes, and of the economic and social challenges;
- the inspection essentially acted in a reactive manner, at the request of the judicial authorities or when complaints were filed;
- the number of labour inspectors and sub-inspectors was insufficient with regards to the activity and new challenges.

As a result of these demands a strategic plan was developed by the government, with the participation of the social partners and political forces; the two major strategic keys were:

- to adopt a proactive and more deliberate direction for the inspection;
- to increase and to improve the human and material resources, in addition to the inspectorate's information systems.

According to this plan the number of Labour and Social Security Inspectors and Sub-inspectors has increased in a substantial way in recent years.



Labour Inspectors and sub-inspectors are civil servants and they are recruited after a selection process.

Only inspectors have competences on all issues included in the scope of competences of the LSSI while sub-inspectors have only competences on Social Security and employment issues and their activities must be supervised by a labour inspector.

After this evolution a new strategic plan for the LSSI has been developed for the period 2008-2012 in order to continue the development of the LSSI but also to face the changes in the market labour related to the economic crisis. The key issues of the plan were:

- The creation and development of a Training center for the LSSI (which has become effective in 2009),
- The transfer of LSSI agents to the government of Catalonia,
- The development of the international position of the LSSI.

Moreover the process of modernization of the inspectorate's information systems (project LINCE) is still ongoing. The project aims to a better homogenisation of the process and activities of the LSSI.

Main tasks and issues

The Labour Inspectors have three main roles when carrying out their tasks and missions:

- Control the compliance with legal provisions and provisions set up by the collective bargaining with regards to:
 - Labour and social dialogue,
 - Prevention on occupational risks,
 - Social Security System,
 - Employment and migration,
 - Any other issue attributed to the LSSI, especially concerning the cooperatives and other systems of the social economy.

- Technical support:
 - To workers and employers when carrying out their missions,
 - To Social Security entities and organisations,
 - To inform, support and cooperate with other public Administration organisms with regards to the labour law and the control of public aids,
 - To draft the reports asked by the competent courts.
- Arbitration, conciliation and meditation
 - Conciliation in case of collective conflicts and strikes when the labour inspector intervention is asked or accepted by both parts in conflict.

The activity of the LSSI is carried out according to the Integrated Plan of Objectives adopted by the Sectoral Conference on Social Issues. The Plan takes into account both the programmed activities (according to territorial aims) and the activities resulting from individual complaints but also the compulsory reports to be addressed to other public institutions or courts.

Labour Inspector's rights during inspection

When carrying out their activities, Labour and Social Security inspectors are considered as public authorities and they are entitled to:

- Enter any workplace at any moment and without previous announcement;
- Be accompanied during the visit by workers, workers' representatives and any employee of the enterprise whenever it is necessary to carry out their missions in an effective way;
- Carry out any investigation, examination or test in order to check compliance with labour legislation; this power includes:
 - question employees and the employer, with or without any witness, on any issue concerning the implementation of labour legislation;
 - ask for the identification of any person present at the workplace.
 - ask for the presence of the employer, his/her representatives, workers and any other person in his/her scope of competences;
 - examine all documents and information related to the compliance with labour legislation;
 - take samples of materials, substances and/or products used in the enterprise;
 - execute measurements, take photos, videos...
- Take any preventive measure in order to avoid the destruction or the modification of documents and information.

Means of action of Labour Inspectors

Whenever carrying out a visit and detecting a violation of the labour legislation, the labour inspector disposes of a wide range of powers aiming to put an end to the violation; the labour inspection has a discretionary power to decide which measure should be taken.

- Issue a warning to the employer whenever there is no danger involved;
- Issue a warning with a deadline; in that case the responsible must put an end to the violation within the fixed deadline;
- Issue a warning with a deadline in case of danger for the health and safety of workers; in that case the employer must take any measure needed to eliminate the risk;

- Initiate an administrative sanction process either on labour, occupational health and safety or Social Security issues;
- Initiate a wide range of procedures with regards to Social Security obligations;
- Issue a prohibition order whenever there is an imminent and great danger to the safety and health of the employees in the workplace ; in these cases all work must stop immediately and it will resume once the danger disappears;
- Report to the Chef Inspector whenever a report must be addressed to the social courts;
- Cooperation with foreign control authorities whenever the labour inspector observes an infringement in Spain of a foreign enterprise.

13.3. The global economic crisis and its impact on the labour inspection system

One of the objectives of the Strategic Plan for the LSSI 2008-2012 was to increase the effectiveness of the LSSI in order to face new challenges and new labour situations related to the economic crisis.

The increase of the number of Labour inspectors was one of the measures taken to improve effectiveness but one of the main consequences of the crisis has been the increasing number of controls to be done (the number of enterprises visited has increased by 9% between 2008 and 2009) so that the workload of Labour inspection agents has remained unchanged.

On the other hand one of the measures taken by the Spanish government to fight the economic crisis has been to “freeze” civil service agents’ salaries and wages; this “salary freeze” has also concerned Labour Inspection agents.

The increasing activity motivated by the crisis and the reduction of the remuneration has generated deep unhappiness amongst Labour inspection employees.

Main concerns in day-to-day activity

Trade unions point several problems concerning the day-to-day activity of LSSI:

- Lack of staff and lack of material resources so that agents cannot give an adequate answer to new realities and challenges as undeclared work, discrimination, integration of disabled persons, employment of foreigners...;
- Insufficient technical support provided to LSSI agents;
- Insufficient support in case of civil or criminal prosecution related to the exercise of their functions;
- Insufficient remuneration;
- Poor working conditions.

One of the answers given by the Administration to solve this problem has been the creation of a Training School for the LSSI in order to improve their effectiveness.

The Central Authority of the LSSI in its report 2009 points out a series of elements having a negative impact on the LSSI activities:

- With regards to occupational health and safety:
 - Insufficient regulation on several issues, as transnational enterprises, so that labour inspection controls lack efficiency;
 - Lack of means to coordinate activities between different countries;
 - Lacks of specific campaigns of control on new issues, as psychosocial risks.
- With regards to employment and labour relationships:
 - Current legislations make it difficult to control working time issues, as overtime, temporary contracts...
 - Insufficient legislation concerning collective redundancies; the main issue concerning collective redundancies is the insufficient time allowed to labour inspectors to examine the demands on collective redundancies and the lack of training to analyse the reality or not of the reasons argued by the employer when proceeding to a collective redundancy.

14. An overview of the Labour Inspectorate in the United Kingdom

14.1. Legal framework

There is a wide variety of public entities and organisms in charge of the control of different labour issues in the United Kingdom but the main one is the Health and Safety Executive (HSE) responsible for the protection of the occupational health and safety.

The provisions regulating the functioning of the HSE are established by the Health and Safety at Work Act (1974), the Legislative Reform (Health and Safety Executive) adopted by Order 2008, the Health and Safety Regulations 1998 (Enforcing Authority) and the Health and Safety Regulations 2006 (Enforcing Authority for Railways and Other Guided Transport Systems)

14.2. The organisation

The HSE is a non-departmental public body with Crown status, sponsored by the Department for Work and Pensions and accountable to its ministers; the HSE intervenes only to guarantee the respect of health and safety regulations (together with certain local authorities and the Office of Rail Regulation (ORR - the independent safety and economic regulator for Britain's railways) and only in private relationships. The responsibility for enforcing health and safety legislations at certain premises may be transferred between HSE and LAs by agreement.

The Board of the HSE is a tripartite body, with representatives from both employers and employees so that the social partners can provide input on the formulation of national policy for health and safety.

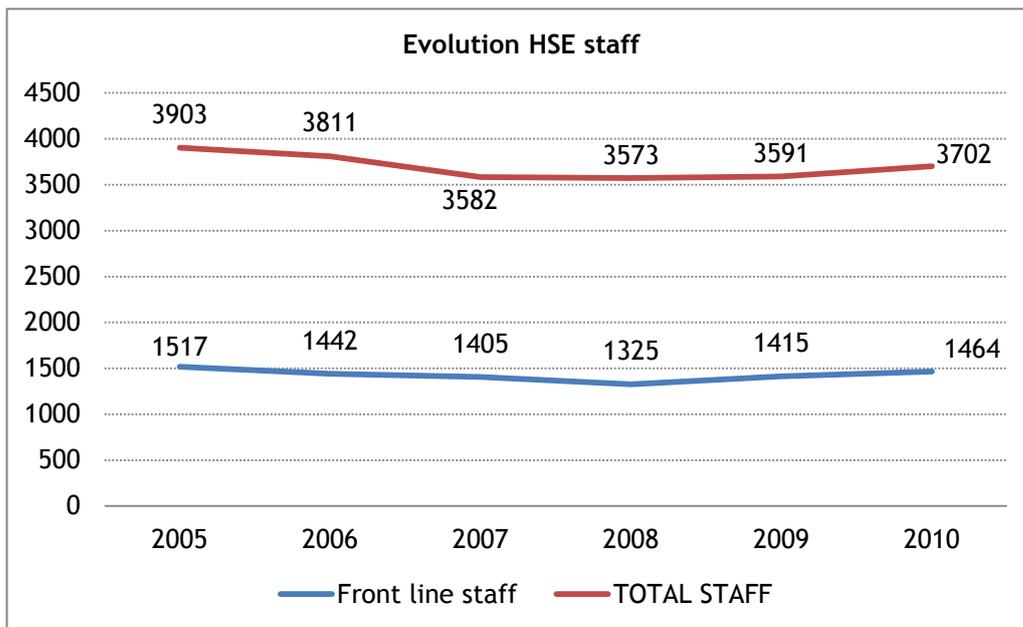
The competences of the HSE covering only health & safety issues, there are other authorities in charge of the control of labour issues in the UK. Among them the main ones are:

- the Employment Agency Standards Inspectorate, which oversees employment agencies operating in the UK;
- the Gangmasters Licensing Authority, the UK Government body responsible for protecting workers from exploitation;
- the HM Revenue and Customs that collects and administers direct and indirect taxes and guarantee the compliance with the rules on the national minimum wage.

Finally, the control of the working time regulations is split between different authorities.

The HSE has 33 offices in the UK and it is composed of different departments: the Field Operations Directorate (organised in seven geographical divisions and a national construction division), the Hazardous Installations Directorate (HID) and the Offshore Division (OD).

In 2010 HSE employed 3 702 persons, out of them 1 464 affected to field inspections.



Recruitment into HSE is conducted in line with the Civil Service Commissioners' Recruitment Code. The systems and procedures are subject to periodic internal and external audits.

Main tasks and issues

The primary task of the HSE, according to its own declaration, is "to secure the health, safety and welfare of people at work and to protect others from risks to health and safety from work activity"

HSE also investigates incidents and complaints about health and safety practices, and develops new or revised health and safety legislation and codes of practice.

HSE regulates health and safety across a range of sectors and industries including major hazard sites such as nuclear installations, offshore gas and oil installations and onshore chemical plants through to more conventional sites, quarries, farms, factories, waste management sites and hospitals.

On a global basis, " HSE seeks to influence people and organisations, duty holders and stakeholders, to embrace high standards of health and safety, demonstrate leadership of health and safety and promote the benefits of employers and workers working together to manage health and safety sensibly".

HSE's strategy called "The Health and Safety of Great Britain \ Be part of the solution" defines the goals that the organisation and all stakeholders in the health and safety system must strive to achieve (www.hse.gov.uk/strategy).

The HSE works together with local authorities who are responsible for regulating half of the workplaces in Great Britain, in particular commerce, retail, hospitality, entertainment and other services.

Both regulators are responsible for many other aspects of the protection both of workers and the public in accordance with the Health and Safety at Work Act 1974.

Health and safety matters dealt with by HSE have not been devolved to the administrations in Scotland and Wales but effective working arrangements have been developed between HSE and these administrations.

Labour Inspector's rights during inspection

HSE inspectors and local authorities use two main tools to secure compliance with the law and improvement in the working environment:

- enforcement (in its widest sense), which is triggered largely by intervention on a double basis:
 - Proactive inspections: these visits are unannounced and also include visits to headquarters of major national companies to discuss and secure improvements in the management of safety throughout the company.
 - Reactively, by investigation of accidents, ill-health and complaints.
- promotional activities: the role of preventive measures is very important in the United Kingdom and that is why HSE inspectors devote a great deal of their working time to giving advice on request to employers, employees and the general public. Information on health and safety is also available from a national telephone helpline (HSE InfoLine).

The work of both HSE inspectors and local authority enforcement officers are determined through annual working plans agreed on after consultation with all the Directorates and taking into account the HSE strategies on safety and health.

Local authorities provide information on their activities to the HSE and the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) provides liaison between the HSE and the local authorities; the HELA seeks to ensure that health and safety legislations are enforced in a consistent way among local authorities and between these ones and HSE.

Means of action of Labour Inspectors

HSE Inspectors and local authority Enforcement Officers are empowered to issue improvement notices in the event of a violation of statutory requirements; the improvement notice must include details of the alleged violation of legislation and the remedial action that must be taken within specified time limits. Failure to comply with the notice will lead to prosecution. The person to whom the notice is issued has the right of appeal to an employment tribunal.

Moreover, inspectors can issue prohibition notices to stop activities they consider dangerous; in this case too, the person to whom the notice is issued has the right of appeal to an employment tribunal.

The inspectors of the HSE, the ORR and the local authorities' have similar powers and responsibilities regarding the enforcement of health and safety legislations, which they make use in different sectors of the economy assigned to them.

14.3. The global economic crisis and its impact on the labour inspection system

From a general point of view the role and the activity of the HSE depend on the budget allocated to its functioning because due to its structure the HSE must have a positive financial situation at the end of each year; this implies that its functioning is quite a mix between public and private organisation as long as although being a public organisation the HSE must manage its budget as a private organisation. The HSE annual report 2010 states that "*HSE's financial plan for 2009/10 was designed to deliver its planned preventative and investigative programmes. HSE has successfully managed to increase front-line numbers*

across the year, maintained activity, lived within its budget and continued to deliver its planned efficiency programmes.

HSE's financial plan for the SR07 period is to spend proportionally more resource in the last two years of the period (2009/10 and 2010/11) in support of strategy delivery. HSE's aim is to maintain front-line inspector numbers at a stable level, continue to become more efficient and retain flexibility in long-term financial commitments in so far as possible"

The seek for efficiency and flexibility has led to a severe cut in the budget of the HSE and the local authorities; in October 2010, the HSE saw its budget cut by 35 % and the budget of the local authorities responsible for occupational health and safety cut by 28 %.

National trade unions have strongly reacted to this news arguing that "*Cuts of this magnitude cannot be achieved through 'efficiency savings' but will mean job losses for large numbers of frontline staff. That will mean fewer visits to workplaces, less enforcement of safety law, and reduced health and safety guidance for employers. As a result, more people are likely to be made ill by their jobs, and killed or injured at work. All in all it's been a bad seven days for health and safety"*.

15. An overview of the Labour Inspectorate in Ukraine

15.1. Legal framework

The Ukrainian Labour Inspectorate, Gosnadzortrud, is the body of public administration responsible for controlling the compliance with labour legislation by economic agents.

The activity, competences, fields of actions, means...of Labour Inspectors are regulated by:

- The Labour Code, Law of 10/12/1971
- The Code of Administrative Offences, Law n°8073 from 12/07/1984
- The Criminal Code of Ukraine, Law n°2341-III from 05/04/2001
- The Act on Collective Agreements, the Law n°3356-XII from 07/01/1993
- The Regulation on Gosnadzortrud (State Department for Supervision on Labour Legislation), approved by the Resolution of the Cabinet of Ministers n° 50 from 18/01/2003
- The verification procedure conducted by officials of the Gosnadzortrud and its regional bodies was approved by Order of the Ministry of Labour from 21.03.2003 № 72.

Moreover Ukraine ratified ILO Convention N° 81, on labour inspection, on November 10th 2004.

15.2. The organisation

Gosnadzortrud is part of the Ministry of Social Policy and directly subordinated to it.

The main aim of Gosnadzortrud, both at national and territorial level, is to monitor whether employers and social insurance funds comply with labour legislation (including timely payment of wages and salaries in due time) and social security legislation.

The scope of competences of Ukrainian Labour Inspectors includes physical persons as well as legal entities.

Main tasks and issues

Taking into account the whole range of competences of Gosnadzortrud the activity of their Labour Inspectors includes the assessment and control of the following aspects of labour legislation and practices:

- The effectiveness of collective bargaining between workers representatives and employers and compliance of the latest with its rules;
- The correctness of personnel records;
- Timely payments of wages to employees;
- The compliance with the legislation on minimum wages;
- The implementation of the indexation of wages;
- The correctness of compensation of travel expenses to employees;
- The calculation of compensation in the event of late payment of wages;
- The legality of dismissals and the timeliness of compensatory payments;
- The compliance with Labour Code provisions on the duration of working time for different categories of workers;
- The legitimacy of overtime work, at night, on holidays and weekends, as well as of the methods of payment for overtime work;
- The frequency and duration of leaves provided to employees;
- Timeliness and fullness of social payments addressed, under relevant legislation, to the Social Insurance Fund for Temporary Disability (FSVR), the Social Insurance

Fund for Unemployment (FB), or the Fund for Social Insurance against Accidents at Work (FTS);

- Other requirements established by legislation, including equal treatment of men and women, the employment of minors etc.

Two main issues for Ukrainian Labour Inspectors are:

- Work of women,
- Work of minors.

With regards to the first issue, work of women, State Labour Inspectors carry out annual verifications of compliance with the law on women's labour. The primary purpose of these verifications is to ensure observance of constitutional law relating to the use of women's labour and of the provisions of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (18 December 1979). During the control, Labour Inspectors also focus on:

- compliance with the Convention provisions prohibiting dismissal on the grounds of pregnancy or maternity leave;
- the prohibition of discrimination in dismissals on the basis of marital status;
- the right of women to paid maternity leave without loss of former employment;
- the provision of special protection to women during pregnancy.

In half of the cases checked on these issues, inspectors still find irregularities and issue injunctions against the directors of companies, institutions and organizations, ordering them to desist from unlawful activities relating to the use of women's labour.

On the other hand, the regional offices of Gosnadzortrud carry out branches' controls to ensure constant monitoring of compliance with the law on the employment of minors; these controls are conducted every year in companies, institutions and organizations and also on individuals entrepreneurs (around 1200 companies undergo such controls every year)

Gosnadzortrud does not have competences in checking the compliance with safety regulations but the improvement of working conditions and occupational health and safety is a main priority of government policy in Ukraine and to tackle this issue was considered as a strategic task and priority for the State Department for Industrial Safety, Labour Protection and Mining Oversight.

In order to increase control and workers protection on these issues, on 9/12/2010, the President of Ukraine issued a Decision liquidating the former institution in charge of the control and attributing its competences to two newly created and separate bodies: the State Department for Mining Oversight and Industrial Safety and the State Inspection of Technological Security of Ukraine.

An analysis of occupational safety practices shows that the rate of occupational injuries, accidents and emergencies in Ukraine is steadily declining. The country's accident rate is still high, however.

Government labour inspectors attached to Gosnadzortrud carry out around 20.000 controls per year in the private sector. In most of the cases, controls are performed on the basis of operational information; therefore the percentage of suits filed for administrative offences from the total of checks is quite high (around 60% of the cases).

Means of action of Labour Inspectors

In response to identified violations of the law Gosnadzortrud can:

- fill reports of administrative offences with district and city courts,
- submit inspection reports for the purposes of instituting criminal proceedings against offenders,
- impose fines on companies, institutions and organizations for failure to comply with the legitimate demands of State labour inspectors that they desist from practices manifestly in breach of the labour legislation (according to article 188-6 of the Ukrainian Administrative Offences Code),
- issue recommendations to proprietors on pressing disciplinary charges against those responsible, leading in some cases to contract cancellations with company directors (around one hundred directors are fired in this way every year).

Although Gosnadzortrud does not have criminal prosecution competence, in some cases Labour Inspectors may submit reports to other law-enforcement authorities, leading to criminal proceedings for failure to pay wages or salaries on time.

The effectiveness of the Labour Inspectors interventions is quite high as long as in 70% of the cases issued by Goznadzortrud the courts decide to impose fines.

15.3. The global economic crisis and its impact on the labour inspection system

No data are available on the impact of the global economic crisis on the labour inspection system.

The European Federation of Public Service Unions (EPSU)

It is the largest federation of the ETUC and comprises 8 million public service workers from over 270 trade unions; EPSU organises workers in the energy, water and waste sectors, health and social services and local and national administration, in all European countries including in the EU's Eastern Neighborhood. EPSU is the recognized regional organization of Public Services International (PSI).

For more information on EPSU and our work please go to:

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