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**Labour inspection in Europe:
Challenges and achievements in selected countries,
including in times of crisis**

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International Labour Organization – Geneva

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Preface

Labour inspection is a vital part of labour administration, with protective and monitoring functions. It is, therefore, an administrative activity, which is bound to uphold the principles, and procedures laid down in the administrative regulations, at least those relating to the power to impose sanctions. Today, it is impossible to talk about good governance without an effective inspectorate, which is capable of facing the challenges of a changing labour market that is experiencing increasing difficulties.

The economic crisis has provided additional motivation for the work of the national labour inspectorates, both at the national and regional levels, as well as efforts to establish new collaboration methods and mutual support systems. The crisis cannot be allowed to weaken the labour inspectorates. Instead, it should help them to develop more creative strategies that will provide them with the appropriate tools in enabling them to fulfil key roles in the protection of workers.

Since labour inspectorates were established in Europe in the nineteenth century, they have evolved in a very specific manner, operating within a framework, which involves a range of innovative strategies to provide support and foster mutual development. Although their role has developed steadily, much remains to be done in order to achieve real efficiency, so that the system within which they work is able to adapt to a constantly changing labour reality.

This working document is the product of the activities and research carried out within the framework of the new Programme on Labour Administration and Inspection (LAB/ADMIN) in Europe, which has the task of developing and coordinating programmes relating to labour administration and inspection throughout the world. Statistics, working documents and projects are some of the materials, which, together with existing studies on the subject, have been used by the author to sketch out the current situation faced by a traditional administrative entity, which has now regained its importance in a region predominantly concerned with the need to ensure the effective enforcement of labour legislation.

The majority of countries have ratified ILO Labour Inspection Convention No 81 on labour inspection in industry and commerce (1947) and Labour Inspection Convention No. 129 on labour inspection in agriculture (1969), but we still face clear and present challenges, and the crisis is raising new, hitherto unfamiliar issues. In recent years, there has been an exponential rise in requests from Ministries in countries seeking to join the European Union, in order to achieve a well-structured system of labour administration and a modern and effective labour inspectorate, which complies with European directives and is able to adapt to changes in the world of work. Understanding developments in the Member States provides a good starting point. This text certainly provides an opportunity to share information with the social partners and experts in the field of labour administration, industrial relations and labour legislation, as well as researchers in general.

I would like to thank, Ms Maria Luz Vega Ruiz, the leading specialist on labour administration and inspection at the ILO, whose vision made this study possible.

Giuseppe Casale
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Introduction

Within the framework of the legislative system, the mechanisms for enforcing labour legislation are very unusual, as they do not rely exclusively on the jurisdiction of the labour courts (general or specialized), but rather result from special action taken by certain administrative bodies, which perform both an advisory and monitoring function. In fact, the activities of the labour inspectorate, in terms of supervising and monitoring the enforcing labour legislation, have led to an unusual administrative system, which may, at times, even conflict with the judicial system.

Within the context of regulations governed by civil law (derived from the Napoleonic Code) and those which stem from common law (one should not forget that the early forms of labour inspection first appeared in the United Kingdom), it is clear that the inspectorate has always played an important role in the world of work. This was essentially the case with regard to labour standards concerning the protection of women and children which, owing to their administrative nature, did not give rise to workers' rights of action and only addressed the employer's duties. Later, the lack of active monitoring on the part of the judicial authorities in the field of labour "extended" the involvement of this administrative body, even after workers acquired the right to file complaints about poor working conditions.

From the outset, the labour inspectorates, whatever their form or function, played a key role in ensuring the effectiveness of existing labour standards. This role classified them as bodies working in the public interest, as labour law is a field which imposes limits on the contracts under civil law, precisely in the common interest of all citizens. Since its inception, the inspectorate has worked to achieve its aims and attain the level of efficiency required by the public interest with regard to working conditions. Thus, this "administrative interference" in what was essentially a private relationship (and one which gives rise to duties of the employer vis-à-vis the administrative authorities), makes the inspectorates special and unique entities.

This document is based on the idea that labour inspection in Europe, the region where it was created, constitutes a vital part of the labour administration system, with both advisory and monitoring functions (whatever its competences and functions may be, or may have been in the past) and is, therefore, an administrative activity, operating in line with the principles and internal regulations of the administrative system. That is why an analysis of its history and its future, shaped by very different political developments, will enable us to discover many of its current features and certain aspects of its development.

The study, looking back through history, reviews the role that labour inspectorates have come to play in a specific region, namely Europe. It is a heterogeneous region with a variety of legislative and inspection systems, but one which shares a single, common aspiration, namely achieving harmonization through regional integration.

Within this regional context, this text will review the different characteristics and features of the inspectorates at the national level, and the individual features of the European systems, as well as developments and challenges posed by a world of work in constant flux. The crisis has posed the most recent challenge, and many questions still remain. The future prospects and aims of the region provide the focus for this study. Moreover, the aim is to sketch out the features of certain specific inspection systems in the region, which vary in both scope and function, but share certain aspirations with regard to achieving greater effectiveness.

1. The history of labour inspection in Europe

Labour inspection is a product of the industrial revolution and resulted from the fact that, at that time and in terms of the public interest, it was extremely important to ensure compliance with legislation on working conditions.

Certain authors identify the guild supervisors and the manufacturing inspectors of the Ancient Regime¹ as the precursors to the current labour inspectors. However, the differences in their activities and aims (they aimed to guarantee prices and levels of quality that met consumers' interests) lead to the conclusion that those individuals monitored production rather than labour.

The United Kingdom pioneered the labour inspection system. The Act of 22 June 1802, which aimed to protect the moral well-being and health of apprentices, established a monitoring system to ensure compliance with legislation. The implementation of the legislation was placed in the hands of voluntary committees², and ultimately, was not a resounding success. On 29 August 1833, in view of the fact that provisions relating to the appointment of honorary inspectors had not been implemented to the letter and that, as a result, protection measures had not been enforced, a new Act (known as the Althorp or Factory Act) was passed by Parliament, which gave the factory inspectors (at that time, there were four inspectors in the whole of the country) basic powers: unrestricted access to workplaces, unhampered investigation of workers and employers and the power to resolve conflicts and decide what sanctions should be imposed.

Later, in 1887, a body of worker auxiliary inspectors was established, which disappeared by 1920, and was replaced by an essentially consultative system with limited functions, focusing on investigating and enforcing compliance with legislation, both in the textile industry and in other industrial sectors (mining, explosives or chemical products).

In 1853, in Prussia, a voluntary labour inspectorate was created, which was placed under the control of a joint committee of police officers and school inspectors. In 1853, a compulsory labour inspectorate was established, although its remit only extended to child labour. In 1869, this remit was extended by Count Otto von Bismarck to cover all labour activities. In 1887, inspectorates were established in all the German states, consisting of special officials with this sole function, who were supported in their work by their police authorities.

In France, the failure of the Act of 1841 on the protection of minors highlighted the fact that any measures lacking the means for ensuring enforcement could never be effective. Thus, the Act of 19 May 1874 on child labour in industry was the first attempt to create a body of civil servants (15) recruited by means of an open competition. It had a specific remit, its own statutes and was responsible for monitoring the enforcement of the above-mentioned legislation. Although its duties were general, specific departments were gradually set up to address problems relating to employment issues and the workforce. The Act of 1892 was amended in 1937 and 1941.

In Europe, towards the end of the century, the state authorities set up delegations and inspectorates (Russia in 1882, Spain in 1883 and Belgium in 1894), which became the real precursors to the current Ministries of Labour (thus, the labour inspectorate has been a key function of labour administration since its very beginnings).

¹ Cfr. Montoya Melgar: *Manual de Derecho del Trabajo*. Octava Edición. Ed. Ténos. Pág. 248.

² There are also interesting references to medical inspections in factories in the United Kingdom at the end of the 19th century.

In 1882, the Russian Ministry of Finance established a factory inspectorate, specifically established to monitor child labour. In 1886, the inspectorate's powers were extended to cover compliance with legal requirements relating to all workers (in 1887 the inspectorate employed 125 inspectors and 6 senior inspectors and by 1899, the total figure had reached 257³).

In 1889, seven European states had inspectorates responsible for monitoring and enforcing labour standards: Austria, Denmark, France, Germany, Russian Federation, Switzerland and the United Kingdom.

From 1900 onwards, various national inspectorates were established. In 1909, the Netherlands created a general inspectorate to address labour and social issues⁴. Belgium and Luxembourg followed suit in 1902, Spain in 1906 and Italy in 1912 (by establishing an inspectorate with its own budget and both a central and a decentralized structure). On 3 January 1919, the head of the Polish state signed an interim decree establishing a professional, state labour inspectorate.

In 1910, the International Labour Office⁵ published its first comparative report on “the enforcement of labour legislation in Europe”⁶, which indicated that twenty-two European countries viewed it necessary to establish a single, independent labour inspectorate with a high level of technical competence. It was initially planned to be an inspectorate for “heavy industry and mining”, but the inspectorate later wanted to also include small-scale industry in its remit, in its desire to ensure real protection of labour conditions (hours and rest time), as well as the health and lives of all workers.

From the outset, all the countries included in the study wanted to ensure variety and diversity with regard to the inspectorate staff. The aim was to make sure that staff represented a variety of professions (medical inspectors and workers), had a wide range of technical skills and that both genders were represented. Meanwhile, all the inspectorates proposed to increase the level of the sanctions to enhance their deterrent effect.

By 1910, international networks already provided the inspectorates with common ground for the exchange of experiences. Moreover, the existence of a central authority and collaboration between authorities at the national level were regarded as especially important concepts.

The statistics on the number of inspectors employed, the number of inspections carried out per inspector and the lawsuits filed are impressive and, in some cases, exceed today's figures. For example, the United Kingdom had 200 inspectors who carried out 2,137 inspections, in Germany, 543 inspectors carried out 505 inspections, in Russia, 268 inspectors carried out 92 inspections and in France, 139 inspectors carried out 1,443 inspections. As for the number of lawsuits filed, in 1909, 3,723 legal proceedings were launched in Britain and 5,889 in France. In 1887, Spain's first labour inspection report revealed that 1,579 establishments had been inspected, and that 2,838 breaches of labour legislation had been recorded.

³ Volodin Andrei Y.: *Russian factory inspection (1882-1918): Cui Bono?* Working Paper No. 2008 - 60 (Moscow, 2007). <http://www.pse.ens.fr/document/wp200860.pdf>.

⁴ The state was divided into ten regions, in terms of monitoring and supervision, each one having an inspector general, accompanied by a councillor and a female inspector; as well as a “worker-monitor” who was elected by the workers.

⁵ The precursor to the current ILO, based in Basel.

⁶ Association internationale pour la Protection légale des travailleurs: *L'inspection du travail en Europe* (Paris, 1910).

Indeed, by 1901, many countries were already producing annual inspection reports (providing a summary of the inspectorate's activities) including Austria, Belgium, Denmark, Finland, France, Germany, Hungary, Italy, the Netherlands, Norway, Portugal, Spain, Russian Federation, Sweden, Switzerland and the United Kingdom.

Although the majority of inspections were carried out by the state administrative authorities (except in Germany, where each state had a clearly defined administrative authority), the Ministry of Labour was not always the administrative authority responsible for inspection (many countries did not have a Labour Ministry). Instead, the Ministry for Industry, Home Affairs or Trade may have borne this responsibility.

Finally, the relationship between the workers and their organizations and the inspectorate began to be viewed as a cornerstone, not only in terms of drawing up and implementing regulations pertaining to the recruitment of civil servants (as has been the case ever since) but, for the first time, also managing the various forms of cooperation between workers and the administrative authorities, within an institutional structure and in a regulated manner. Thus, in the United Kingdom, worker representatives could visit a mine once a year and, report breaches of regulations, while in Italy they were given the legal right to request information on weekly rest periods. In Germany, inspectors were invited to draw up safety and health standards together with the labour administration authorities, and in Austria, they sat on councils, which drafted labour legislation. In Norway, the Act on factory work provided that one member of the local committee, in each town, was to be elected from amongst the workers. However, neither in the Netherlands, nor in Russia, did worker organizations affiliate themselves with the labour inspectorate or become involved in the promulgation of legislation.

The ILO report concluded by addressing proposals for reform, which aimed to achieve greater effectiveness and clarity in terms of the inspectorate's activities, without proposing any specific or joint action in all the countries included in the scope of the study. Change was necessary, but it was not yet clear how this change would be achieved.

In subsequent years, the development of various standards⁷, supported by the workers' requests, contributed to reaffirming the inspectors' authority as civil servants. From this point of view, labour inspection became a key aspect of the legislative process within the labour administration system. Thus, it became one of the main pillars of social reform. This dual view of its activities (strict monitoring and the active observation of real labour conditions) already reflected the unique nature of the inspectorates' activities within the framework of the judicial system.

⁷ For example, on 31 May 1909, the chemical industry workers in Frankfurt-am-Main met to approve the extension of the inspectorate's powers and call for the recruitment of more medical and auxiliary inspectorate staff elected by the workers. In Hamburg, in May 1909, the IX Conference of the Union of Metalworkers called for a restructuring of the Inspectorate, thereby granting more powers to the inspectors. They called for doctors and persons responsible for occupational hygiene, as well as workers, to be employed as inspectors, in order to ensure compliance with protective safety and health legislation.

On 19 June 1909, at the VII Congress of Christian Unions in Cologne, calls were made for an inspectorate that aimed to ensure compliance with protective legislation for female workers in the chemical industry by recruiting medical staff and auxiliary staff elected by the workers. In Turin, in 1910, the National Council of the Labour Confederation held a meeting. Amongst its conclusions, it highlighted the need to extend the inspectorate to cover all the provinces in Italy. In 1910, at the VI Congress of Austrian trade unions in Vienna (at the Favoritener Arbeiterheim), members agreed that the increase of the number of inspectors, the reduction of the number of districts allocated to each inspector, the election of workers to the post of inspector and the nomination of inspectors to cover rural industries.

The national inspectorates in Europe have developed in a variety of different ways. However, it should be noted that, today, they depend on the state or on a decentralised, public administrative authority, as they provide a public service and normally operate under the auspices of the labour administration (even though in certain countries, such as Moldova, the competent ministry is the Ministry of Trade and Economy, and competences relating to social and labour issues rest in the hands of one of its departments).

In addition to the state inspectorates, the socialist system established after the revolution of 1917, created a singular model in the countries within its sphere of influence. As an ILO publication on the socialist countries in Europe published at the time suggests⁸, these inspection systems involved the coexistence of both state and trade union inspectorates. This idea came from the former USSR which, when it dissolved the Council of the People's Commissars in 1933 (where the inspectorate had been based since 1918), transferred the body's inspection duties (those pertaining to safety and health) to the central trade union Council, which had the same powers as the state authority. When a central labour authority was established in 1955, the inspectorate remained within the trade union structure.

Starting in 1958, pilot projects were implemented to establish inspectorates to monitor labour and employment conditions (and whose work would parallel that of the safety and health inspectorates). These projects were consolidated in 1976 with the creation of legal inspection units for all branches of activity, both within central trade union committees and in the trade union councils in the various regions and republics, including Moscow and Kiev. Simultaneously, within the labour administration structure itself, "social" labour inspectors were elected (to monitor working conditions and compliance with legislation) and reported to the trade union councils and organizations. Additionally, at an administrative level, the central authorities and the various regional units were creating new, extremely technical, state inspectorates (nuclear, fire, etc.).

1.1. Developments in Eastern Europe

After the Second World War, the USSR's experiences attracted the attention of a number of countries within its political orbit. In 1945, Poland set up workers' councils responsible for monitoring working conditions and with specific, technical functions (very much focused on safety and health). In 1950, social inspectorates were established, which had a broader mandate in terms of enforcing compliance with standards. In 1954, their usual monitoring competences were wholly transferred from the state to the trade unions, although, at the same time, specific state inspectorates were also established in the field of safety and health.

Similar developments took place in Bulgaria⁹, Czechoslovakia and Hungary, where the mandate of the technical inspectorates, controlled by the state and/or the trade unions, was extended to cover all matters relating to compliance with labour standards. Other countries implemented slightly different systems. For example, Romania always viewed the inspectorate as a state service (with duties relating to both safety and health and social inspection) and the German Democratic Republic established an additional, combined inspection system with a broad range of legal functions.

⁸ OIT: *Study on labour inspection in socialist countries of Europe*, Labour Administration Series, No. 3 (Geneva, 1987).

⁹ Bulgaria perhaps had the inspectorate with the greatest powers at trade union level, as the unions monitored all labour-related competences, except for health and safety.

In summary, for decades, the inspection systems in former socialist Europe involved a structure where state and/or union inspectors¹⁰ (responsible for protecting the general interest) worked in parallel with a social inspection body responsible for ensuring compliance with legislation, a task performed by social inspectors.

From the mid-80s onwards, the functions of inspectorates in certain countries began to be reabsorbed into the exclusive remit of the state and most of their competences were either allocated to a single unit or department, or granted to two separate inspection bodies, one to cover safety and health issues and the other to monitor compliance with legislation on labour and employment conditions, or what was known as “social inspection”.

Hungary, for example, was the first among these countries to create the state inspectorate in 1985. In Poland, the inspectorate was placed under the control of the Parliament to enable the state to coordinate all the services, within the various administrative authorities, which had a labour/social inspection role. This progressive transfer of powers to the public administration began to be consolidated¹¹ during the nineties, through political and economic changes which, by creating a new concept of labour relations, required the trade unions to separate their functions from those of the state, in order to avoid conflicts of interest and facilitate a more democratic form of participation.

In spite of these changes in the nineties, inspectorates in transition countries faced various common structural problems (a fact made particularly clear in the results of the ILO tripartite missions to analyse the inspection systems in Hungary, the Czech and Slovak Republics and in Poland¹²). According to the ILO¹³, there were still problems relating to an excessive amount of legislation (specific, technical and general) in addition to a lack of coordinated legislation (in the USSR alone, there were more than 2,000 standards relating to safety and health, and published only in Russian, although they applied to all the “satellite” states, which were not enforced because they were not published in the local languages, while in the Republic of Czechoslovakia, of the 7,000 standards at national level, more than 90 per cent contained labour protection provisions) which were generally not widely enforced.

Prevention was a virtually non-existent concept in the work of the labour inspectorates (traditionally, the inspectorate took a reactive approach and imposed sanctions), and even in the workplace there was no clear concept of inspection and internal collaboration. The excessive amount of red tape, which had been inherited from the Soviet planned economy, was a part of everyday life, and the view that the inspector was merely another civil servant undermined their role as specialized officials and members of a public authority. Finally, there was a lack of general awareness and tripartite participation in ensuring compliance with legislation and prevention work.

¹⁰ Inspectors assigned to trade unions were also paid by the state.

¹¹ Nevertheless, in 1996, page 25 of working document No. 48 of the Labour Administration Service at the ILO, which was entitled *Role of Labour inspection in Transition Economies (Geneva)*, indicated that even in 1995 certain countries, and in particular those belonging to what was known as the Commonwealth of Independent States of the USSR, trade unions were responsible for inspection or shared these responsibilities with the state.

¹² Reports of the ILO tripartite mission to evaluate the labour inspection systems in Hungary (Geneva, 1992), the Czech and Slovak Republics (1993) and in Poland (1993). ILO, Labour Administration Service, Geneva.

¹³ ILO: Working document ADMITRA No. 48 (Geneva, 1996), op. cit., page 19.

1.2. Changes in Western Europe

Countries in Western Europe also shared certain characteristics and problems, albeit of a different sort and more closely related to a market economy involved in a process of transformation. Generally speaking, the main problems included rapid development, in terms of legislation and technology, the mushrooming of small and medium sized enterprises which were the backbone of the economy, new forms of labour relations and ill-defined or disguised employment relationships, the growth of the services sector and, last but not least, the lack of seriously credible fines and sanctions, which meant that these measures did not really work as deterrents. Thus, in relation to the process of consolidating the European community, a 1985 ILO study indicated a series of common features and goals¹⁴, in addition to the ones described above, which included an issue, which is still relevant today, namely the problems facing the labour inspectorate in a period of crisis.

The study found that although the European inspectorates had undergone a process of significant and positive change, they still faced serious difficulties, which limited their ability to protect workers.

Indeed, the ILO report noted the low number of inspection visits to workplaces (for example, the labour inspectorate made inspection visits to 5 per cent of companies in Italy, 20 per cent in France and 19 per cent in the Federal Republic of Germany), which was a consequence of an increase in the administrative or management tasks allocated to the inspectors at the time. It was noted that the inspectors spent more time in the office than carrying out workplace inspections¹⁵, and more time was even spent on conciliation/mediation activities than on monitoring working conditions. There were significant shortcomings with regard to the way in which protection measures were implemented and maintained in the workplace, which increased the risk of accidents and worsened safety conditions. In certain countries, safety risks also began to increase because of the existence of precarious or complex labour relationships and a growing tendency to outsource labour. Finally, there was a clear preference, which could be described as a “bias”, for planning and implementing inspections in large companies.

The other issues mentioned included methods of tripartite cooperation with the labour inspectorate/administration. These issues remained unresolved, as most countries had problems relating to the workers’ and employers’ confidence in the labour inspectorates’ ability to achieve effective results.

The fact that the sanctions were not sufficient or appropriate was repeated in all the ILO missions to the various countries. As an example, in 1984, only 5 per cent of breaches of legislation recorded in France were brought to court. In Belgium, the main problem was the small number of cases that resulted in a conviction in the courts (for example, in 1974, of the 274 cases brought to court by the inspectorate, 67 were closed, 170 produced no verdict and only 33 resulted in a conviction). In Denmark and Norway, the problem was the inspectors’ inability (mostly technical) to actually record, in a properly documented and consistent manner, any breaches of legislation, in order to ensure that their case was successful. In the Federal Republic of Germany, the inspectors imposed very moderate sanctions, which did not correspond to the serious nature of the breaches recorded in the register of the inspectorate. This situation was perhaps due to the fact that under German legislation, sanctions were imposed on individuals rather than companies, which meant

¹⁴ ILO: *Tripartite Symposium of Specialists in Labour Inspection*, Geneva, 21-25 October 1985. Comparative analysis of the reports of tripartite missions assessing the effectiveness of labour inspection systems in seven countries in Western Europe: Belgium, Denmark, France, the Federal Republic of Germany, Italy, Norway and the United Kingdom.

¹⁵ ILO: 1985, op. cit. page 38.

that in cases where the labour relationship was complicated, an additional investigation would be necessary to establish responsibility.

Interestingly enough, although all these countries had experienced a rise in the number of inspectorate staff, the problem stemmed from the increase in the tasks assigned to them. There were training programmes/plans in place, but in nearly all countries, these plans were insufficient, from both a technical and a legal point of view, and the information and instruments available to the inspectorates were precarious and extremely basic, especially those relating to technical measures.

The same study (as mentioned above) also noted the impact of economic crises on the work of the inspectorate, with the first and most important consequence being the fact that, in times of crisis, problems relating to labour and working conditions took priority over safety and health, in some cases to such an extent that inspectors in the general inspectorates, such as the French inspectorate, essentially monitored the termination of employment relationships and mass closures/dismissals and technical inspections became a marginal activity. From a more operational point of view, and in order to deal with the crisis, certain Nordic countries created parallel programmes aimed at improving working conditions by means of specific promotional activities organized by the labour administration.

In spite of the measures taken, the crisis worsened relations between workers and employers in certain countries, as it was frequently argued that, in the view of one of the parties, protection measures were not being implemented in an appropriate manner or that the process involved additional labour costs, forgetting that there were always ways of addressing needs relating to health and hygiene in a progressive manner and without incurring excessive costs, as was laid down in the general legislative provisions in force at the time.

The situation is different today, although certain issues continue to pose problems and there are no short-term solutions available (the crisis is a relevant example). Europe has undergone significant developments in recent years and enormous steps have been taken with regard to building a Europe of twenty-seven Member States, improving the working and living conditions of European workers.

1.3. Current trends in Europe

What do European labour inspectorates have in common today? Firstly, it is clear that, in line with ILO standards, all the Member States which have ratified ILO Convention No. 81 in particular (as provided in Article 3) have given the labour inspectorates the task of ensuring the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, a task which requires a common national legal framework, that is to say, the system which regulates working conditions in each country. Secondly, it is important to remember that the bulk of the Directives adopted by the competent bodies of the European Union feature provisions on safety and health at work, a field that falls within the general remit of all the inspectorates in the region, irrespective of the inspection system in place or its scope of application. At the same time, countries which aspire to full membership are also taking steps to coordinate and harmonize their legislation with regional standards, a process which fosters mutual development and broadens aspirations in the field of inspection and protection in the region of Europe.

For the European Commission and Council, the effective enforcement of EU legislation is a prerequisite for improving the quality of the working environment and that

is why the Senior Labour Inspectors' Committee (SLIC)¹⁶ aims to strengthen cooperation between the Member States and the European Commission, and to foster the effective and coherent enforcement of European legislation in all the Member States. Its work has primarily, although not exclusively, focused on safety and health.

With regard to this issue, one must stress the role played by the SLIC in facilitating the exchange of information and experiences, organizing cooperation and mutual assistance and, above all, providing support for objectives for establishing common principles of good practice in the field of occupational safety and health inspection and methods for assessing the national inspection systems, in line with these principles. This is something which is extremely difficult in practice, which is not to deny that it is clearly convenient in the short term. That is why both the Commission and the Council agree that it is vitally important to integrate the inspectorates in the candidate countries into the SLIC framework, in order to ensure the effective enforcement of EU legislation.

It is important to note that the model for the European inspectorates does not provide completely rigid criteria for organizing the work of the inspectorates (except that the inspection must be placed under a central authority) although, as Article 7 of Convention No. 129 clearly stipulates, inspections must be carried out by a single labour inspection department responsible for all sectors of economic activity, or by a single labour inspection department, which would arrange for internal institutional specialization by creating a technically qualified service, or a specialized inspection service, the activity of which would be supervised by a central body¹⁷. The concept of a central authority does not imply the absence of a decentralized administrative structure or even a federal system. Decentralized states (the case of Germany is a prime example) are perfectly able to implement the idea of a decentralized inspectorate in the *Laender*, which is coordinated at a central level by establishing, in line with the provisions of ILO Convention No. 81, links/cooperation with a central authority, which then facilitates the work of the labour inspectorates, while sufficient budgetary resources are also allocated to all the federal states or regions.

All these various, diverse systems (centralized, federal, integrated, technical and generalist) can be found in Europe today.

That is why the ILO does not refer to inspection models, but rather inspection systems, thus avoiding any discussion of whether it is more appropriate to have a general or specialized inspectorate, especially in view of the fact that the majority of European systems exhibit, to a greater or lesser extent, hybrid features. In Scandinavian countries, where the inspectorate's primary duties involve safety and health, inspectors are given the task of supervising certain aspects relating to labour conditions (working hours, leave and child labour).

The significant changes which have taken place in the world of work have meant that the inspectorates, both in Europe and in other regions, have to seek new solutions in order to continue to fulfil their duty of protecting the workers. Today, the crisis has provided a

¹⁶ In addition to EU Member States, Norway, Iceland, Liechtenstein and Switzerland also take part as observers.

¹⁷ With regard to labour inspection (which follows the general administrative model, as explained above), a decentralized system operates under different circumstances and according to different criteria, based on the competences and structures of the existing labour administration. In federal states, and irrespective of the criteria which may have been adopted with regard to specialized inspectorates, competences are generally divided between the federal labour inspection authorities and the authorities in each federal state, although in some countries the inspectorate may be placed directly under the authority of the federal authorities.

new challenge (and one which is, without a doubt, a recurrent problem). This need to change and adapt forces the inspectorate to be more flexible, so that it can quickly allocate resources to newly emerging challenges whilst maintaining clear priorities, in order to have as much of an impact as possible on compliance with safety and health standards and working conditions in companies¹⁸. This has been the case in Ireland and Switzerland, as a result of a disproportionate growth in undeclared work.

Indeed, in Ireland, the new Employment Law Compliance Bill of 2008¹⁹ created a new, central authority on employment rights, giving inspectors competences in the field of employment relations, by means of better delegation of competences and improved coordination with other competent authorities.

On 1 January 2008, a new federal law to combat undeclared work came into force in Switzerland. It not only provided for a monitoring body with strengthened powers of investigation and coordination at cantonal level, but also improved relations between various institutional entities involved in the fight against undeclared work (social security, police, unemployment insurance/job centres, etc) and larger fines. The Swiss federal authorities differentiate between labour market inspectors and safety and health inspectors, two separate groups which are required to collaborate on this and other matters. The implementation of the legislation is left up to each of the cantons, and there are clear differences in terms of the powers granted under law.

1.4. The inspectorates in Europe: heterogeneous models for protecting the workers

Any attempt to describe the inspectorates in Europe becomes more complicated than one could imagine when one includes the ongoing process of EU harmonization in the 27 Member States (and candidate countries). It is a fact that, within the European mosaic, the varieties and models of labour inspection systems described in general terms above are changing, merging and revealing unique features. Although the national systems have their own, peculiar characteristics, they do share a common objective, namely to ensure that the inspectorate's duties, which include prevention, consultation and monitoring activities, as well as the exchange of information and knowledge, are performed effectively.

As well as needing to address new issues (see above), as a result of the current situation on the labour market, European inspectorates must also face the challenge of the globalization of labour relations and, ultimately, the need to introduce trans-border monitoring.

The European Commission (with respect to the positing of workers in the framework of the provision of services (COM/2006/0159), which is developed further by Directive 96/71/CE to establish cooperation measures) indicates that the cooperation of the administrative authorities is vital and presupposes the existence of a control authority with sufficient measures and resources in each country. Moreover, it provides that "Member States need to evaluate constantly the effectiveness of labour inspectorates and other monitoring systems and examine ways to improve them, in keeping with their obligations under the Directive. These efforts may be supported by strengthening the cooperation between the national authorities responsible for monitoring (including labour

¹⁸ Ellis A.: *La inspección de trabajo en Europa occidental, políticas, prácticas y experiencias*. Educación obrera (Geneva, OIT, 2006), page. 63.

<http://www.ilo.org/public/spanish/dialogue/actrav/publ/140/9.pdf>

¹⁹ Employment Law Compliance Bill.

inspectorates) on matters covered by the Directive. At least once a year representatives of the labour inspectorates or other bodies responsible for the monitoring the application of the Directive should meet in the expert group on posting of workers.” It adds that “[I]n order to fulfil their obligations, Member States are asked to re-examine their systems for monitoring and implementing the Directive. They are asked, in particular, to ensure that there is a mechanism in place to remedy any deficiencies; that appropriate and proportionate monitoring measures are in place; and that service providers who do not comply can be effectively sanctioned. The Commission undertakes to work with the Member States in order to improve transnational cooperation of labour inspectorates in the subject areas covered by the Directive on the posting of workers”.²⁰ |

In this context, between 1999 and 2003, the Commission worked hard to redefine the concept of cross-border cooperation between inspectorates, following the introduction of the principle of free movement. Although the Senior Labour Inspectors’ Committee had established a basis for better cooperation and understanding, the efforts undertaken in 1999 under the British presidency (involving the creation of a working group on cross-border labour inspection), no agreements were signed. Although a call for interest was published in 2005 for a legal study on the issue, the project was later abandoned.

In general, significant progress (see below) has been made but certain issues remain pending, such as the mutual recognition of sanctions, or the implementation of sanction proceedings.²¹ A problem which still remains unresolved, to a certain extent, is the possibility of prosecuting specific companies which fail to comply with legislation in the Member State where they are active on a temporary basis, and are therefore able to avoid sanctions when they cross the border and return to the state where their headquarters are registered. Both the European Convention on Mutual Assistance in Criminal Matters of 29 May 2000, and the Framework Decision (2005/214/JAE) of 24 February 2005, have introduced important changes, although they must first be implemented and transposed into national legislation.

While international efforts have yet to lead to the full implementation of Directive 96/71, they have nevertheless given rise to a series of bilateral agreements. For instance, the Agreement on the Exchange of Information and Cooperation of 3 October 2003, between the Labour and Social Security Inspectorate in Spain and the General Labour Inspectorate in Portugal, regulates certain forms of cooperation between both bodies, especially in the fields of safety and health, accidents at work, work permits for citizens from outside the European Union or the exchange of information on the movement of workers, as well as regulations for identifying the official, registered headquarters of a company and the exchange of information on data on posted workers (of course, in line with national legislation on the protection of personal data pertaining to workers).

In 2007, Poland and Belgium also signed an agreement with the same scope which involves the inspectorates (including safety and health inspectorates) in the field of social protection (working conditions and remuneration) for posted workers.

In countries such as Belgium, the Directorates General set up expert groups to examine the problem of exchanging information with foreign inspectorates on specific

²⁰ From “Directive 96/71/EC”.

²¹ For further information, see *Páramo Montero, Pablo: La ejecución transfronteriza de sanciones penales y administrativas. Asistencia y reconocimiento mutuos en los procedimientos sancionadores en el ámbito de la Unión Europea. Especial referencia a los supuestos del orden social. Revista del Ministerio de Trabajo e Inmigración: Derecho del trabajo, núm. 78 (Madrid, 2008), págs. 323-344.* <http://www.mtas.es/es/publica/revista/numeros/78/Revista78.pdf>

issues. In this regard, the SPOC (*single point of contact*) system aims to create a fast and effective response method.

New agreements continue to be negotiated and/or signed (for instance, the recent agreement signed in February between France and the Netherlands) within the framework of the fight against undeclared work, and as a means of promoting improved compliance with EU directives on safety and health.

Other agreements, signed within the framework of the SLIC, open the way to interesting information exchange networks, as in the case of the MACHEX network which, when the EU Directive on machinery 2006/42/EC was implemented, established a system for sharing information between the inspectorates on cases involving defective machinery (which have affected or could affect the health of workers).

In order to address the need to protect workers in Europe, the legal and institutional framework must be adapted, new means of progress must be promoted and efforts must be made to incorporate provisions on safety and health and working conditions into all EU policies. It is necessary to stress the fact that one of the Commission's competences involves ongoing efforts to adapt the Directives, taking into account new developments in the world of work, technical progress and scientific knowledge. In this regard, national reports on the practical implementation of the Directives have particular significance, involving assessments carried out in companies. In this way, we will not only be able to close any gaps, but also improve existing regulations and practices.

At the same time, it is also necessary for representatives of the labour inspectorates in the candidate countries to become involved in the SLIC, the Bilbao Agency and the Dublin Foundation, amongst others. Once these basic tasks have been completed, in order to promote new roads towards progress, the Member States must harmonize their statistics and systems of compiling and processing data.

Moreover, as has been mentioned on several occasions, it is essential to explore the role of social dialogue and tripartite cooperation. Emerging risks such as stress are ripe for analysis through social dialogue, bearing in mind that the wide variety of illnesses that may result from stress justifies the involvement of the social partners, in line with the procedures established in Article 38 of the Treaty.

2. Issues and strategies: Specific examples

In the field of safety and health, a common matter for all the inspectorates, it is important to remember, whilst waiting for pending questions to be answered, that the Green Paper on Promoting a European framework for Corporate Social Responsibility [COM (2001) 366 final] put forward the view that that safety and health are fields particularly suited to the introduction of voluntary good practice schemes by companies which may be concerned about breaching existing rules and standards. That is to say, it provides a common focus for improving working conditions.

However, a new community strategy in the field of safety and health at work will turn out to be meaningless if no efforts are made to diligently promote the incorporation of these strategies into other community policies, European strategies in the fields of employment and public health, and all those relating to labour inspection. Without the former it is not possible to fully take advantage of the productive potential in the European Union, while without the latter, there is no connection between safety at work and the general state of health of the population. Similarly, albeit to a lesser extent, we need to ensure that strategies based on preventive measures, such as those in the field of transport, the environment, civil protection and even the common fisheries policy are implemented.

It is vital to harmonize policies and involve the inspectorates in all matters that may have a social impact.

At the same time, one must bear in mind that one of the common features of European inspectorates is, as has already been mentioned, the complex reality in which they have developed. This reality now includes new types of contracts which have led to the disappearance of permanent jobs, ill-defined labour relations resulting from new forms of employment, new occupational risks, new forms of work and working time, and all this against a backdrop of constant change. Indeed, a study published by the European Foundation for the Improvement of Working and Living Conditions²² points out structural changes to working conditions which have had an impact on national and regional policies. The study reveals a trend which features an improvement of working conditions, both in terms of legislative provisions and in practice (apart from in relation to night work and weekend work, for example), and a decrease in professional risks, but an increased burden at an individual level (intensity of work) and growing levels of absenteeism, as well as an increasing lack of motivation owing to temporary contracts, with few career opportunities and poor access to training. The inspectorates thus face different problems with regard to risks (stress) and working conditions (more conflict owing to a lack of motivation). Changes in the world of work present new challenges.

In parallel to these issues, the 48th SLIC meeting (Luxembourg, 7 March 2005) focused precisely on the idea of permanent changes to the social structure in Europe, which resulted in a series of conclusions concerning the management and organization of the inspectorates. These conclusions stressed the need to reinforce the working methods and organization of the inspectorates in order to achieve effectiveness, with all of this serving as the point of departure for creating a new focus.

Based on this point of view, the conclusion was drawn that reliable impact indicators were needed to measure the effectiveness of the service, in terms of risk reduction and economic efficiency, provided by the inspectorate in its role as an administrative body. The conclusions stress that it is vital to continue to study the aims and objectives required, and that planning has become, more than ever, an indispensable working method. Thus, the inspectorates need to refocus their activities on two levels. Firstly, they need to favour preventive methods over reactive ones, in order to address priority issues and, secondly, they need to focus on the possible sanctioning of companies which had previously failed to comply with legislation, relying on the support of social actors, which are the fundamental pillars of all programming activities, to do so. Finally, the conclusions stress that the most effective working methods should be promoted, and for this to happen it is necessary to foster teamwork within the inspectorates, as well as the exchange of information and working methods. Thus, it is vital to promote coordination between the inspectorates within the general framework of labour administration. The protocols and technical guidelines should be the product of joint efforts if they are to be implemented successfully.

²² *Ramón Peña-Casas and Philippe Pochet: Convergence and divergence of working conditions in Europe: 1990-2005. European Foundation for the Improvement of Living and Working Conditions (Dublin, 2009). <http://www.eurofound.europa.eu/publications/htmlfiles/ef08104.htm>.*

2.1. The structure of labour inspectorates in Europe²³

In line with ILO Conventions Nos. 81 and 129 on labour inspection (labour inspection in industry and trade and labour inspection in agriculture, respectively), the labour inspectorates exist to “ensure compliance with legal provisions relating to working conditions and protection of the workers”. All European Union countries, except Slovakia, have ratified ILO Convention No. 81, as have the majority of the candidate countries and the other European countries which had once formed part of the USSR. Far fewer countries have ratified ILO Convention No. 129, although the majority of the countries on the list of ratifications are European states (see Annex).

Europe has a mixture of different inspection systems. There are generalist inspection systems responsible for monitoring labour conditions, the work environment and individual or collective labour relations. These systems often also play a part in the areas of employment and training or social security (in countries such as France, Spain, Portugal, Japan and Senegal). They often co-exist with specialized systems in which the range of responsibilities devolved to different departments may be rather broad and concern not only conditions of work but also matters such as labour relations, these responsibilities being shared among a number of specialist departments under the overall control of separate authorities (as is the case in Belgium, Hungary and Switzerland) or of one single authority. Lastly, there are systems based on interventions by multidisciplinary teams in which, within one local inspection department, inspectors with complementary areas of competence can intervene together or in turns and consider mainly conditions of work (for example, Austria, Denmark, Norway, United Kingdom and Sweden).

In certain countries (especially in Eastern Europe), inspectorates are responsible for monitoring the payment of social security contributions (but not affiliation status or the level of social security contributions, as is the case in Spain). This is the case in countries such as Montenegro, Moldova, Bosnia-Herzegovina and Macedonia.

From the point of view of public administration, in certain countries labour inspection is the responsibility of a single body of civil servants, answerable to a Ministry that deals with labour issues (Spain). However, in general, the work of the labour inspectorates is complemented by that of social security inspectorates or inspectorates specializing in monitoring labour-related risks at the national level (France and Switzerland, respectively). Italy combines a national system for supervising labour conditions and employment, operating within the remit of the Ministry of Labour and Social Policy, with a network of local inspectorates that monitor safety and health. In the United Kingdom, the inspection system combines the activities of the safety and health inspectorate with powers exercised by bodies at the local authority level, which are responsible for inspecting small and medium-sized companies in the services sector.

The departments responsible for labour inspection may be single departments covering all technical fields (Spain, France or Luxembourg) or may involve two or three entities within the administrative system, with competences divided evenly between them, as is the case in Belgium, Hungary or Bulgaria. In these cases, coordination is based on the concept of what has come to be known as integrated labour inspection, which involves the participation of the various units responsible for labour inspection in joint planning

²³ There is a great deal of information available on the various inspectorates in the majority of these countries, and most of this information is up to date and has been posted on the websites of their respective labour administration authorities. The descriptions and information featured in the following chapters are of a general nature and tend to stress specific examples and trends, without going into too much detail, as further information can be found on the above-mentioned public sites. The data provided, except for specific footnotes, may be found in the annual reports, which are available on the websites of the relevant ministerial departments.

activities and joint action, in order to achieve a common objective. Ultimately, the aim is to ensure the effective coordination of management tasks, in order to avoid duplication of work.

Certain countries have specialized inspectorates for specific branches of industry, such as transport (the Netherlands) or mining (France and Spain).

Many countries have restructured and modernized their labour inspectorates, focusing their efforts on improving inspection in the field of occupational safety and health and, recently, the fight against undeclared work (see above references to Ireland and Switzerland). These changes have been reflected in new standards and organizational structures, as well as internal guidelines.

Italy reformed its inspectorate in 2004 (Act 124), in order to improve coordination and the exchange of information between the various agencies involved, as well as to improve its advisory services.

As a response to the economic crisis, Greece is currently discussing a Bill on labour inspection, which aims to ensure that inspections are more frequent and more effective. The Bill provides for the creation of one hundred new inspectorate posts in the regions that have experienced a growth in economic activity and fines (between €500 and €50,000) for companies that do not comply with legislation. Due to its limited resources, Greece has also decided to set priorities and focus its improvement efforts on high-risk sectors, such as the construction industry.

Denmark recently embarked on a sweeping reform of its labour inspection system, including a scheme, which allows the Working Environment Authority in Denmark to examine safety and health conditions in all Danish companies over a period of seven years. Indeed, between 2005 and 2012, the Danish Working Environment Authority will be able to inspect safety and health conditions in all Danish companies. Under the “Smiley system”, it will be compulsory to publish the results of these inspections and the safety and health conditions in companies and the information will be available on the website of the Danish Working Environment Authority (www.at.dk). By 12 November 2008, 34.498 companies had been inspected and classified using smiley symbols (4 symbols).

In the new EU Member States, reforms generally aim to improve administrative efficiency. Thus, for example, the Czech Republic has established a National Central Labour Inspection Office as well as regional labour inspectorates, with a view to establishing a real, central inspection authority, with a well-defined structure.

At this stage, it is important to point out that the majority of European countries have a central authority and independent regional structures.

2.2. Central authority and decentralization

Nevertheless, the current administrative and political structures of the countries in the region raise certain questions concerning the role of the central authority. Articles 1, 4, 5, 6 and 8 of ILO Convention No. 81 and Articles 3, 7, 8, 10, 12 and 13 of ILO Convention No. 129 on labour inspection lay down the rules according to which the labour inspectorates should be organized and operated, in order to achieve the goals set out by these instruments.

Under these provisions, the labour inspectorate must operate as one system, under the supervision and control of a central authority, with the cooperation of other private or public institutions, and the collaboration of employers and workers, or their organizations.

At first glance, the concept seemed to reflect a very centralist and narrowly focused approach, but a detailed reading of the Convention clearly explains these concepts.

It is true that ILO Recommendation No. 20 on Labour Inspection (1923) called for the labour inspectorate to be placed under the direct and exclusive control of a central national authority and for it not be dependent in any way on the local authorities. However, Article 4 of ILO Convention No. 81, amends this concept by introducing certain interesting provisions which, although they affirm the principle of a central authority, grant it a certain flexibility with respect to two issues: firstly, the labour inspection system shall only be placed under the supervision and control of a central authority, in so far as is compatible with the administrative practices in the Member state (paragraph 1) and, secondly, in the case of a federal state, the term “central authority” may mean either a federal authority or a central authority of a federated unit (paragraph 2).

Indeed, a decentralized system operates under different circumstances and according to different criteria, in line with the competences and structures of the existing labour administration. In federal states, and irrespective of the criteria that may have been adopted with regard to specialized inspectorates, competences are generally divided between the federal labour inspection authorities and their various subordinate bodies, although in some countries the inspectorate may be placed directly under the authority of the federal authorities.

The problems associated with a decentralized structure are multi-faceted and vary in nature, although one common problem does relate to the coordination of the inspectorates in terms of monitoring the enforcement of legislation (common criteria). In Austria, for example (the inspectorate was created under the provisions of the 1974 Act on labour inspection), the Austrian Conference of Presidents of the Chambers of Agriculture indicated²⁴ that the adoption of Act 280 of 1980, on the working conditions of workers in the agricultural industry and forestry in a federal state, led to the division of functions relating to the monitoring of social legislation in these sectors, given that provincial inspectorates did not yet have competences relating to the sector covered by Act 280 of 1980, which has since belonged on the general inspectorate services of the state.

However, experience has shown that placing the inspection system in the hands of a central authority facilitates the creation and implementation of a single policy throughout the whole country, encourages the sensible use of available resources and, in particular, minimizes the duplication of work.

One should not imagine that the flexibility clauses that apply to federal states undermine the principle of a single, central authority, because the authorities in each federal state have the budgetary resources to perform labour inspection functions in their respective areas of competence. The important thing in this case is that information must be clear and promote coherence.

Thus, in this context, the ILO does not consider the initiative, adopted in certain countries, of decentralizing the labour inspectorate without also obliging the decentralized administrative authorities at the regional or local levels to implement a system to ensure its operation and allocate sufficient budgetary resources (this is currently not the case in Europe) to its activities, in order to be compatible with the provisions of ILO Convention No. 81.

The situation in Spain provides a recent illustration of this concept. Although the Kingdom of Spain is not a federal state, the autonomous communities have their own

²⁴ ILO: CEACR Observation C. 81 (Geneva, 2007).

competences with regard to enforcing labour legislation, especially in terms of organizing inspections and implementing procedures for enforcing the sanctions imposed by the labour and social security inspectorates. Act 42/1997 on the organization and operation of the labour inspectorate, established two mechanisms to foster cooperation between the general state administration and the autonomous communities: the Sectoral Conference on Labour Affairs and the Territorial Committees on Labour and Social Security Inspection. The former provides a forum for discussion and exchanging information, and involves the ministry and the autonomous communities. Once a year, the central labour inspection authority also participates in this forum to present a report on the activities of the labour inspectorate during the previous year. To this end, it provides updated information on programmes with general and territorial objectives, proposals for coordination or the integration of territorial plans, the inspectorate's resources and how they are distributed, as well as any other pertinent questions. The sectoral conference has a permanent labour committee to facilitate communication, collaboration and the exchange of information between the public administrative authorities on issues relating to labour inspection.

In Spain, the other mechanism for collaboration involves the territorial labour and social security inspection committees, which operate based on bilateral cooperation and whose objective is to facilitate the performance of inspection duties in each autonomous community. Its composition, competences and the regulations that govern its work are laid down in bilateral agreements, signed by both the general state administrative authority and by each autonomous community. Regulations on technical support and collaboration between experts can be established based on these agreements, as can regulations pertaining to programming and following up of work to monitor the enforcement of legislation adopted by the autonomous communities, but monitored by the labour inspectorate.

Nevertheless, and in line with the provisions of the Statutes of Autonomy, certain autonomous communities, such as Catalonia, have signed a bilateral transfer agreement whereby the control of the inspectorate is taken over by the respective autonomous community. The transfer process began on 1 January 2010.

2.3. The functions of the inspectorates

The way in which the inspectorates in Europe perform their functions varies greatly from country to country, depending on the structure of the inspectorate, the amount of time dedicated to the various labour inspection functions, the activities involved, whether these actions are taken on the inspectorate's own initiative or in response to a complaint, and the scope and framework of inspections relating to safety and health or compliance with other working conditions. In general, inspections cover all sectors of the economy (including specific, specialized inspectorates), although certain basic principles are respected, such as the inviolability of the home (in practice, excluding the inspection of domestic workers) and the exclusion of prison work inspections.

The inspectorate's areas of activity vary with respect to the competences involved. There are significant differences between the more specialized inspectorates, although all of them cover general safety and accidents at work. Issues such as coverage and monitoring of psychosocial risks or ergonomic issues constitute a minor part of their activities and there is no real and regular inspection of chemical risks.

The preventive role of the labour inspectorates is becoming increasingly important in all countries. In Belgium, for instance, the traditional mission of inspection and enforcement is now focussed on technical assistance and information. Even though the regulations concerning welfare at work constitute the basis for inspection activity, and OSH is a priority area of labour inspection, penalties are imposed only as a last resort. In

other countries, such as Bulgaria, the General Labour Inspectorate systematically contributes to the development of policies and health and prevention strategies.

Generally speaking, in all the European labour inspectorates, the inspectors enjoy powers granted to them under ILO Convention No. 81 (free access, gathering of evidence, investigation of accidents, access to documents and the right to impose sanctions), although, for example, only the inspectorates in Great Britain, Sweden, Finland and Denmark are able to impose direct and on-the-spot sanctions.

2.4. Resources and measures

A general study on labour inspectorates by the ILO²⁵ Committee of Experts also stresses the vital importance of providing inspection services, as well as having the material and human resources required to ensure the effective functioning of the inspectorate and, at the very least, to ensure that the workplaces under their supervision are inspected thoroughly and regularly.

Although, it has generally been stressed, at the national level, that all countries need to recruit more inspectorate staff, the number of inspectors per country varies²⁶. In 2007, there were between 45 and 50 inspectors per million workers in Belgium, Spain, Hungary, Slovenia and the Netherlands, and 250 inspectors per million workers in Finland, Greece and Italy. However, this *ratio* does not paint a clear picture as, in certain countries, technical and auxiliary staff count as inspectorate staff or the inspectorate headcount also includes the technical support services (in the United Kingdom, only around half of the 1,500 persons registered as inspectorate staff are actually active labour inspectors). Furthermore, such a general and global ratio does not permit us to accurately measure the actual activities of the inspectorates.

In Spain, for example, statistics reveal that, in 2007, out of a total of 1,405,938 companies registered in the social security register, 433,701 workplaces were inspected, which means that one third of all workplaces were visited that year (i.e. any given company is visited once every three years). This figure seems to confirm the effectiveness of inspections, especially given that these inspections resulted in 1,229,163 proceedings. In Poland, for example, the inspectorate carried out 54,550 inspections, covering some 5,172,363 workers. In 2005, the number of inspections increased by some 10 per cent (66,639), but the number of workers inspected stood at 3,393,532, which indicates an actual decrease in the number of workers subject to any sort of monitoring.

In the Netherlands, the number of inspectors operating in the field of safety and health fell by 4 per cent between 2003 and 2006, although this drop cannot be attributed to the parallel increase in the number of inspectors in the field of combating fraud (the figure rose by over 30 per cent during the same period and, by 2006, there were 179 inspectors working in this area), but rather to the internal restructuring of technical inspectorates, in order to create multidisciplinary groups which collaborated with other, *ad hoc* inspectors.

²⁵ OIT: *Estudio General sobre los Convenios relativos a la Inspección del Trabajo*, CIT, 95.^a reunión, Geneva, 2006. (*General Survey of reports concerning Labour Inspection Conventions and Recommendations, ILC 95th Session, Geneva, 2006*)

²⁶ According to the HESA Newsletter: *Inspection still a weak link in most national preventive strategies*. Special Report. The Community strategy 2007-2012, No. 33, November 2007, page 23.

http://hesa.etui-rehs.org/uk/newsletter/files/Pages%2023-29%20from%20FINAL_News33UK_v5-6.pdf

In Cyprus, a country with 23,544 registered companies²⁷, 5,850 inspections were carried out in 2008. In France, in 2006, one inspector was responsible for 1,087 workplaces and, on average, 11,006 workers (in spite the fact that the total number of staff employed by the inspectorate had risen since 1996 to 742). In Bulgaria, in 2005, 3,511 inspections were carried out by 440 inspectors. In Lithuania, in 2008, out of 93,422 companies, 10,469 were inspected by inspectorate staff.

In recent years, the activities of the French inspectorate have mainly focused on the fight against undeclared work (*illegal* work under the provisions of the law), a phenomenon that is becoming more frequent every year in many EU countries. It is a concept that covers a great variety of offences against the laws on employment, as well as abuses of the right of residence of foreign nationals. Not only are inspectors called on to cooperate with the other state bodies responsible for combating illegal work, such as the police, the gendarmerie, the social security institute (URSAFF) and customs, but the inspector responsible for one of the two sections forming the labour inspectorate acts as the secretary of the Committee to Combat Illegal Work (COLTI).

Activities within this framework clearly aim to monitor illegal immigration, which has an impact on the inspectorate's ability to perform its normal functions. The professional association of French labour inspectors has filed complaints, both at the national level and with the ILO, concerning the fact that their work focuses exclusively on undeclared work, something that has led to both ethical problems and an excessive workload.

Moreover, the French inspectorate now has a further, additional function, in that it has been given new responsibilities pertaining to the resolution of labour. As a result, labour inspectors are regularly asked to intervene in labour disputes or to prevent latent disputes from erupting, especially in certain strategic sectors which, if paralyzed, might put the economy of a French *Department* (or administrative region) at risk, by means of a blockade which would prevent access to a port, an airport, or the main motorways, etc.

In Finland, the SAK and the AKAVA (trade union organizations) estimate that the inspectorate's capacity to cover inspection requirements in certain areas of activity has fallen by some 10 per cent. The Government, however, believes that the meeting of the operational districts of occupational safety and health was satisfactory and that the new inspection units are operational. However, generally speaking, the new missions are certainly more complex, in view of the fact that they involve assessing both the legal and the sociological aspects of the case. However, in spite of the trade unions' observations, the number of inspections carried out in Finland rose slightly in 2005, after a period of decline, which lasted for a number of years, and now focus on the assessment of risks at work and on taking appropriate measures to enforce occupational safety and health legislation.

The Federation of Netherlands Trade Unions (FNV) has indicated on a number of occasions that the labour inspectorate only has eight full time staff to supervise the removal of asbestos, which suggests a fall in essential inspections, a situation made worse by the lack of cooperation and coordination between the inspectorate services.

Recently, and presumably as a consequence of the economic crisis, certain European countries have "frozen" the recruitment of new inspectors (Sweden). On the other hand, countries such as Portugal created one hundred new posts in 2009.

²⁷ These included 919 inspections relating to the Public Officials Act which, since 2006 (amendment to the Act of 01/04/2006) is no longer one of the competences of the General Labour Inspectorate Executive Agency.

In 2006, the Latvian labour inspectorate created seven new posts dedicated to tackling undeclared work, which the Ministry for Social Protection stipulated as being one of the priority areas of action that year. However, bearing in mind the number of posts which had become vacant (the number of inspectorate staff fell by a fifth, from 43 to 31, by December 2006), the total number of staff was slightly lower in 2006 than in 2005.

There is no uniform set of indicators available for the region to reflect the real effectiveness of the inspectors in relation to their numbers, and which would allow us to measure the effectiveness of the strategies implemented. There is no doubt that new methods for compiling and collating data are necessary, and that these methods should be based on common criteria, in order to facilitate comparisons between countries. For example, only certain countries have been able to assess the statistical probability of inspections in a given year, on a random basis. Nevertheless, national programmes could, and should include this data, although they currently do not.

In all countries, the selection and recruitment of inspectors, under the provisions of ILO Convention No. 81, is based on professional criteria and, in certain cases, the applicant's qualifications are examined (France, the Netherlands²⁸, Belgium, Spain, Portugal) and/or shortlisted candidates are interviewed after steps have been taken to verify that they possess the necessary qualifications, as stipulated in the call for applications (United Kingdom and Sweden).

Generally speaking, in the European Union (henceforth referred to as the EU), the professional profile for inspectors focuses on engineering graduates (safety and health inspectorates) and lawyers (general inspectorates), followed by occupational health doctors (curiously almost wholly absent in countries such as Denmark) and hygiene experts, as well as ergonomists and psychologists.

Each country has a different training system and all of them have created different training methods for vocational training for new employees, which generally combine theoretical and practical training. Although training may well be structured to ensure steady progress towards its goals, in some countries it remains far from being a systematic, up-to-date system with sufficient resources that are appropriate with regard to the specific conditions in that country. In the field of employment alone, training periods range from three to 24 months and few countries have a training school for inspectors.

In France, the well-known INTEFP (National Labour Institute) is the central institution responsible for the regular training of inspectors. This model has, to a certain extent, also been used in Bulgaria, Poland and, more recently, Spain and Portugal. In Belgium, training is provided based on collaboration agreements with training institutions and, in the case of experts in the field of engineering, state-run technical institutions. The ministries themselves draw up the training schedules and no specific training institution exists, although some countries do have national public administration schools.

The training curriculum is, generally speaking, the same for technical inspectors as for general or employment inspectors, and only a few countries have specific courses for inspectors specializing in certain technical areas, as in the case of engineers and hygiene experts in Denmark. However, specific training on individual topics is given to "specialist inspectors". For instance, in the case of undeclared work, if two inspectorate units exist, the one responsible for the employment relationship will be the only one to benefit from training.

²⁸ Moreover, both require an interview.

In certain countries, the training process is designed to culminate with competence tests. This is the case in the United Kingdom, Sweden, Finland, Germany, the Netherlands and France, where the training process sometimes ends with an additional interview and a report (France), an assessment written by senior staff (Germany) or a follow up of the work of the trainees (United Kingdom). In Slovenia and Macedonia, inspectors refresh their knowledge every three or four years, respectively, by taking a test.

Although all of the countries in the region subscribe to the idea of lifelong learning, there is generally no specific training programme for inspectorate staff. Instead, training involves *ad hoc* courses, which relate to specific priorities or campaigns.

2.5. Inspections

It is believed that less time is spent on actual visits to companies than on administrative activities as a whole, whether they be administrative, investigation-related or additional tasks. This may conflict with the core role of the labour inspectorates (and, to a certain extent, the principles of ILO Convention No. 81).

There is no quantifiable data available concerning the time spent on writing reports, legal documents and proceedings, meetings and discussions with other administrative authorities or on the time spent dealing with the public and on consultative activities, participation in debates or disseminating information. In a recent, internal EU evaluation²⁹ of the Swedish model, it was estimated that inspectors spent over 40 per cent of their time out of the office, and often used the telephone to obtain information and follow up on proposed measures. However, the assessors believed that even less actual time was spent on visits (around 25 per cent) due to the administrative burden.

It is important for the continuous process of legislative change in Europe to include sufficient time for evaluation and adaptation. Indeed, with more tasks and legal monitoring duties being allocated to the inspectorates, the more time will be available for assessment and adaptation. Countries such as France estimate that visits (in all forms) take up less than half the working time of inspection staff.

The majority of inspections are carried out in response to individual complaints (in Poland, for example, this is true in 30 per cent of cases³⁰) or planned campaigns, and very few are carried out on the inspectorate's own initiative. Moreover, many countries appear to favour what is known as "preventive" monitoring, which does not involve sanctions.

In Portugal, of a total of 53,244 technical inspection reports written in 2007, 36,862 were the result of initiatives, 2,442 were in response trade union complaints, 7,162 to individual complaints and 6,778 responded to information passed on from other organizations. In Belgium, in the same year, of 1,285 visits, 1,092 were planned, 131 were instigated at the inspectorate's own initiative and 33 in response to complaints, with the remaining 29 related to the provision of information or meetings.

In Belgium, 9,457 inspections were carried out in 2008, which resulted in 6,775 breaches of regulations being reported. Curiously, although the number of inspections fell by 7.6 per cent in comparison to 2007, the number of breaches increased by almost 10 per cent as the inspections focused much more on sectors with a high risk of non-compliance. Three quarters of the breaches related to undeclared work.

²⁹ Information provided by the SLIC.

³⁰ See OECD: Employment Outlook (Paris, 2008), page 117.

In the Netherlands, for example, warnings and/or compliance orders are issued in 80 per cent of cases and only some 10 per cent of actions lead to a suspension of a company's activities (2007 data). In France, in 2006, 72.18 per cent of actions resulted in observation and only 2.9 per cent gave rise to a report of a direct breach of regulations. In Spain, in 2007, operations were suspended in 1,781 cases, i.e. in 7 per cent of all inspections. Meanwhile, 170,249 safety and health compliance orders were issued, i.e. 15 per cent of all inspections.

In Poland, the national authorities have created, as a specific preventive measure, internal regulations, which stipulate that the first visit to an employer (and particularly to a new company) shall be for the purposes of gathering information and consultation.

The majority of scheduled visits (around 60 per cent) follow a risk assessment at a central level that is used to identify sectors and companies to be inspected. The risk assessment also focuses on safety and health³¹, although a growing number of ad hoc campaigns address the issue of undeclared work.

Campaigns, as we have seen above, are a widespread method used in all European countries, and many of them are launched in response to priorities established within the EU framework, which allows them to attain common goals. The campaign on the manual handling of loads, organized by the SLIC, is one of the most recent achievements, and has produced excellent results.

Certain European countries have, or have until recently, placed restrictions on the discretionary nature of the visits. In Poland, for example, the Act of 2007 on the National Labour Inspectorate stipulates that inspectors must obtain a permit prior to an inspection visit and present this permit to the employer, except in urgent cases, where the employer must receive the permit within seven days.

On the other hand, Article 80 of the Act of 2 July 2004 on Freedom of Economic Activity provides that the labour inspector must carry out inspections in the presence of the employer (except in cases stipulated in the same article); while Article 82 proscribes the carrying out of two simultaneous inspections at the same company, so that if an inspection is being carried out by an authority other than the inspectorate, the labour inspector is obliged to announce his visit and to schedule, in agreement with the new employer, a new date for the inspection. Meanwhile, Article 83 of the same Act imposes limits on the duration, frequency and scope of inspections (except for in cases stipulated under the same legislative provisions).

2.6. Sanctions and monitoring mechanisms

One of the main obstacles to effective inspections, as indicated by the majority of the social partners³², is the effectiveness and dissuasive impact of the sanctions imposed by the inspectors. This concern is also reflected in the annual inspection reports. Administrative sanctions are usually imposed and fines are channelled back into public funds. However, where the sanctions involve legal proceedings, the results are very different (very few proceedings result in a definitive outcome without appeal), which –in many cases– leads to doubts concerning their effectiveness. Furthermore, in many countries, the judicial route is slow and potentially costly.

³¹ Most activities in Europe focus on safety and health (2/3), although this is a logical consequence of EU directives in this field.

³² HESA, *op. cit.*

The total sum collected at the national level from administrative fines is not always significant although, in some cases, it may have a real deterrent effect at an individual level. In the Netherlands, for example, 5,000 fines were imposed in 2005 (most of these associated with undeclared work or safety and health), totalling approximately €20 million. In Cyprus, in 2008, fines amounting to €209,362 (in 84 cases, the fines were issued for breaches of safety and health legislation) and, out of a total of 332 cases of breaches of regulations that were identified and passed on to the judicial services, 69 cases were lodged with the criminal court.

In Poland, the fines imposed in 2006 were, on average, 20 per cent lower than the maximum and certain authors³³ believe that fines are not effective. In general, fines are not viewed as good deterrents, due to the fact that for the same period, the average value of the fines imposed (as confirmed during the course of administrative proceedings) was €195.

In Slovenia, 23,706 cases were opened in 2006, of which 6,234 were pursued in the administrative courts and led to administrative sanctions.

In Belgium, because of the measures taken to improve the work of the inspectorates in the field of undeclared work (see above), €68 million was collected following social inspections. In countries that traditionally have a strong administrative system, the fines are more effective and are applied more regularly. In France, for example, the number of observations and breaches of regulations registered per inspection stood at 5.6 in 2006, while the number of court decisions following an inspection, led to 689 convictions out of a total of 1,439 cases dealt with by the courts in 2006. In Lithuania, in 2008, 7,656 sanctions were imposed (2,996 administrative sanctions, 2,504 fines amounting to 505,894 LVL and 462 warnings and 4,690 implementation reports) out of 28,567 confirmed breaches of regulations.

In Spain, 433,701 workplaces were inspected in 2007. These inspections produced 1,229,163 actions, which led to 95,861 convictions and the sanctions imposed amounted to €2.7 million. Moreover, 1,011 reports were drawn up concerning presumed criminal responsibility.

In Romania, 83,693 companies were inspected in 2006, producing 60,979 sanctions amounting to 90,069,310 lei. Moreover, of the 43 criminal proceedings associated with employment and minor matters initiated in 2006, 40 were pursued in the courts, although by September 2007, no final verdicts without appeal had been passed.

Aware that their fines were insufficiently high, countries such as Ireland reviewed and increased their fines, reforming the legislation on breaches of regulations in 2005. Agreements concerning certain types of sanctions were also adopted in France and the Czech Republic.

Some countries have established specific forms of collaboration between the inspectorate and the judicial authorities, with the aim of ensuring that the inspectorate's actions are effective. In Spain, for example, and within the context of social courts, the action plan for the development and implementation of the Spanish occupational safety and health strategy (2007-2012) has created special prosecutors in each autonomous community to pursue breaches of labour regulations, especially those relating to safety and health. The prosecutors work alongside the trade unions and the inspectorate, especially in

³³ Kus, Jakub A.: *Undeclared Labour in the Construction Industry*. Country report - Poland - June 2006, European Institute for Construction Labour Research (CLR), Brussels.
<http://www.clr-news.org/CLR-Studies/Poland%2003-OK.pdf>

relation to compliance with the prevention of safety and health risks, where the employer is alleged to be in breach of regulations.

In France, a monitoring agency was established within the General Labour Directorate to monitor the legal proceedings resulting from the inspectorate's actions, which not only collates information pertaining to administrative and criminal proceedings, but also manages collaboration with the Ministry of Justice, in order to ensure a better follow-up of the cases lodged. In Belgium, the *Cheop* system has created databases, both internal and external, containing data pertaining to jurisprudence.

In certain countries, the judicial and the administrative systems are integrated. In Austria, for example, alongside administrative proceedings which rely on *ad hoc* tribunals and involve the inspectorate, which is therefore authorized to present its argument before the court's verdict is handed down and to appeal against any decision, parallel proceedings also exist which deal with violations of the Penal Code. This process implements the provisions of the Penal Code and proceedings are initiated when the labour inspectors submit documents and reports to the Department of Penal Investigations or the Department of the Public Prosecutor. In any case, the courts must inform the inspectorate services of the end of any proceedings, but not of the court's decision.

In Cyprus, in order to help labour inspectors to prepare reports pertaining to legal matters, the Ministry for Labour and Social Security calls on the services of a lawyer who examines in detail and checks each case before it is lodged with the courts. Moreover, labour inspectors regularly attend seminars organized by the police-training centre, during which the police officers specializing in legal matters explain the provisions of the Criminal Code and offer advice regarding the methods to use when recording statements and drawing up legal reports.

The ILO's own Committee of Experts on the Application of Conventions and Recommendations (CEACR), in its general observations concerning Convention No. 81 in 2008³⁴, indicated that the "effectiveness of the binding measures taken by the labour inspectorate depends to a large extent on the manner in which the judicial authorities deal with cases referred to them by, or at the recommendation of labour inspectors. It is therefore indispensable for an arrangement to be established whereby relevant information can be sent to the labour inspectorate so that it can accomplish two things: (1) the first of which is to be able to review where necessary its criteria for assessing situations in which, with a view to bringing an end to a violation, it would be more appropriate to use other means than prosecution in the courts or the recommendation that legal action be taken and (2) the second of which is that it be able to take measures to raise the awareness of judges concerning the complementary roles of the courts and the labour inspectorate, respectively, in achieving the common objectives of the two institutions in the field of conditions of work and the protection of workers", which, according to the CEACR is confirmed by the "criticisms by workers' organizations of the inadequate level of support given by the courts to the labour inspectorate in other countries".

The CEACR also suggests that "effective cooperation between the labour inspection services and the justice system can be achieved through the adoption of legal provisions and the implementation of educational measures and the exchange of information. For example, the legislation could define: (i) cases in which the representative of the public prosecutor may either issue a prior warning to the entity responsible for a violation or, within a reasonable period, refer reports of violations by labour inspectors to the competent

³⁴ <http://www.ilo.org/ilolex/cgi-lex/pdconvs2.pl?host=status01&textbase=ilospa&document=534&chapter=5&query=%28%23subject%D06%29+%40ref+%2B+%23ANO%3D2008&highlight=&querytype+bool%context=0>

court; (ii) cases in which labour inspectors may seek a judicial ruling to give injunctions or administrative fines executory force; and (iii) cases in which interim daily penalties for non-compliance may be imposed until the measures ordered by the labour inspector have been given effect.” In Ireland, the labour authorities are authorized by law to publish the names of companies and individuals convicted in court, as well as the reason for the convictions, making this information accessible to the labour inspectorate, which then allows the central authorities to make good use of this data.

By the same token, certain mechanisms are currently aimed at strengthening the punitive nature of the sanctions imposed by publishing them. An example is the previously mentioned Smiley system in Denmark, or systems such as those in Portugal and Spain, where sanctions may be accompanied by a decision to publish cases involving repeat offenders, and which feature either serious or very serious breaches. Furthermore, in Portugal, sanctions may also be accompanied by a ban on participation in public tenders. In the United Kingdom, in much the same vein as in the two countries mentioned above, information on improvements which have been implemented, as well as ban orders, must be made accessible to the public. Moreover, court rulings handed down each year to those who breach occupational safety and health legislation have been published on the Internet since 2001.

In Switzerland, sanctions may include increases in insurance premiums and, as is the case in the United Kingdom, the withdrawal of permits and the suspension or revocation of the company’s operating licence. Belgium has a similar system with regard to accident insurance premiums, whereby a mathematical formula is used to reduce the premium for companies which comply with legislation and experience few accidents in the workplace, and a progressive increase in premiums for companies which do not meet minimum compliance requirements (this is similar to the no-claims bonus used by car insurance companies).

2.7. Accidents at work and the accident rate

One of the European Union’s inspection priorities is to reduce the number of accidents at work. In fact, the safety and health strategy for 2007-2012 sets the goal of reducing accidents at work by 25 per cent. Although progress has been made in this regard, much remains to be done in order to achieve this objective. According to the ILO, there are 167,000 work-related accidents worldwide every day. According to the European Occupational Safety and Health Agency, accidents at work cause 167,000 deaths in Europe alone per year, and the average number of days of absence from work is between 13 and 71 days per accident.

The Netherlands has adopted a proactive approach to preventing major accidents by setting up the Additional Risk Inventory and Evaluation (ARIE) for companies storing or using large quantities of dangerous substances, and special inspection requirements. However, the Confederation of Netherlands Industry and Employers (VNO–CNW) considers these regulations too complicated, arguing that they impose additional national requirements beyond those laid down by ILO Conventions and European Directives. In its view, the fact that, as highlighted by the National Federation of Christian Trade Unions in the Netherlands (CNV) and the Netherlands Trade Union Confederation (FNV), following a series of inspections relating to compliance with the ARIE regulations, the labour inspectorate had to issue warnings or demands for compliance in 50 per cent of the cases was partly due to the complexity of these regulations. It considers that the ARIE regulations could be scrapped without any impact on the level of protection afforded to workers.

In Lithuania, in 2008, the rate of accidents fell (from 6.07 per cent in 2005 to 4.35 per cent in 2008) for the first time in five years, as a result of specific campaigns in the sectors with the highest number of accidents, as well as an increase in investment in various companies, in order to improve existing safety and health systems.

It is important to bear in mind that the accident rate is directly linked to working conditions and the types of contracts in place. In France, in 1998, an inquiry into working conditions by DARES revealed that the accident rate involving workers in temporary employment companies was 13.3 per cent; compared with an average of 8.5 per cent for the country as a whole, and that for apprentices the rate was as high as 15.7 per cent. In Spain, the comparative statistics for accidents between 1988 and 1995 indicate that the accident rate per 1,000 workers was 2.47 higher for temporary workers than for permanent employees, and that the rate of fatal accidents was 1.8 times higher³⁵. In Belgium, in 2002, the accident rate for permanent manual workers, or those with long-term contracts, stood at 61.7, compared with 124.56 for manual workers hired via temporary employment agencies.

Furthermore, the various methods of subcontracting labour (there are no specific data available on this subject) reveal important problems for the inspectorate, associated with the question of responsibility, which were raised by large-scale and fatal accidents, such as the AZF disaster in Toulouse on 21 September 2001, or the REPSOL explosion in Puertollano (Spain) in August 2003.

2.8. Collaboration

2.8.1. Collaboration with other authorities

All the inspectorates have mechanisms in place to facilitate coordination with other authorities and inspectorates. However, in practice, these vary as greatly between EU countries as they do between other countries in the region.

Collaboration with the police and other public authorities is currently a matter of course and does not pose significant difficulties, as it is generally fluid and commonplace. Non-EU European countries frequently have a sanitary inspectorate (in parallel to the labour inspectorate) with functions relating to occupational diseases and certain competences in the field of occupational accidents. There is little coordination between these inspectorates and, as a result, there is not much in the way of a shared register and few data available in both cases, as well as a lack of any real preventive strategy and a failure to take advantage of the resources of both institutions.

Collaboration with social services and tax agencies is essential, especially in terms of monitoring labour relations and undeclared work. Since 2007, the Polish National Labour Inspectorate has mandated that the inspectorate shall inform the employment offices of workers without contracts and grant access to company, social security and tax registers to facilitate any investigation. At the same time, they must inform the competent authorities of possible breaches of other tax regulations relating to foreigners or social security. In Hungary, labour inspectors carry out joint inspections with the tax authorities, especially with regard to illegal and child labour.

³⁵ Boix P., Orts E., López M-J., Rodrigo F.: *Trabajo temporal y siniestralidad laboral en España en el período 1988-1995*. Cuadernos de Relaciones Laborales (Madrid, 1997), no. 11, pages 275-319. <http://revistas.ucm.es/rla/11318635/articulos/CRLA9797220275A.PDF>

The protocol signed in 2001, and renewed in 2007, between the supervisory authority for social legislation in Belgium and the social security inspectorate, which aimed to end human trafficking by means of coordinated and joint action (involving the state prosecutor and the judiciary) has produced tangible results. Thus, in 2007, 181 legal proceedings leading to sanctions were initiated involving 2,801 foreign workers suspected of being illegal immigrants.

Since 2003, various memoranda of understanding have been signed in the United Kingdom between the HSE (Health and Safety Executive) and the departments for rail transport, engineering, etc.³⁶

In Romania, a large number of protocols have been signed since 2004 to promote collaboration involving various national authorities (police, Ministry of the Economy) and local authorities.

2.8.2. Collaboration with the media

Collaboration between the inspectorate and the media is vital, in order to achieve a better awareness of the monitoring work of the inspectorate and the importance of its services to workers and the employers, as beneficiaries of these services. Numerous campaigns, especially ones relating to safety and health or the monitoring of illegal work and/or employment have been implemented in various countries with a certain level of impact in the press.

In Europe, public campaigns are essential and play a crucial role, especially in terms of prevention. In view of the fact that in the construction industry (a sector where the work carries a significant number of occupational risks), employees falling from a high area posed one of the greatest problems (along with accidents related to transport, either at the workplace or away from it), the Senior Labour Inspectors' Committee implemented the first joint campaign which, focused on the construction sector and aimed at preventing falls from a certain height.

It has been demonstrated that inspection campaigns are viewed as very valuable tools for raising awareness and improving compliance with legal requirements and standards, but this was the first time that the Member States had harmonized the way in which the inspections are carried out, and the result has been a significant reduction in accidents in certain countries, such as Northern Ireland³⁷, where accidents in the construction industry decreased by more than 50 per cent as a result of measures to address failures to comply with regulations relating to the above-mentioned risk. As a result, all the Member States have agreed to follow the same schedule and to implement identical information campaigns, making use of the media and the press in order to raise awareness concerning the construction industry, using the same inspection methods and addressing the same issues. Since then³⁸, campaigns have been carried out on an annual basis, and, from the statistical point of view, have produced tangible results in all of the countries.

³⁶ For example, a memorandum of understanding was signed in 2006 between the rail authorities of and the local inspection authorities in order to define the collaboration between the two authorities, and in November 2006 another memorandum was signed concerning the transport by rail of radioactive substances.

³⁷ Ellis: *La inspección de trabajo en Europa occidental, políticas, prácticas y experiencias*. Educación obrera (Geneva, OIT, 2006).
<http://www.ilo.org/public/spanish/dialogue/actrav/publ/140/9.pdf>

³⁸ The most recent SLIC campaign focused on the handling of loads.

2.8.3. Collaboration with the social partners

The importance of the relationship between the inspectorate and the social partners, and especially the trade union representatives, has already been highlighted on numerous occasions in this text (especially in relation its significance and the opportunity to ensure compliance with legal obligations concerning the protection of working conditions).

As the CEACR pointed out in its 2006 general survey on labour inspection, “[t]he labour inspectorate can attain its objectives only if appropriate measures are adopted by the competent authority to promote effective collaboration with employers and workers in its activities.”³⁹ Certain European countries have created a national, tripartite consultative body, with broad competences, to address issues relating to labour, within the framework of collaboration between workers’ and employers’ organizations and the labour inspectorate in the field of occupational safety and health. This is the case, for example, of the Labour Inspection Authority in Norway, or the Labour Protection Council, which was disbanded in 2006, in the Polish Parliament.

However, it is more often the case that national tripartite councils are set up to thoroughly examine issues relating to occupational safety and health in industry and trade, as is the case in Cyprus, Hungary, Portugal (National Council for Occupational Safety and health (CNHST)), United Kingdom and Switzerland.

In Spain, the Act on Labour Inspection and Social Security established a Tripartite Consultative Committee for Labour and Social Security Inspection (created in 2006), which provides advice, draws up proposals on action strategies, identifies priorities and general objectives pertaining to labour inspection, inspection campaigns, staffing levels and resources for the inspection system, the inspectorate staff recruitment procedures and training, etc.

Inter-institutional cooperation and collaboration with social partners may also take on other forms. In Bulgaria, for example, a Declaration was issued by the General Labour Inspectorate, within the framework of cooperation on all levels with the two most representative trade union confederations. This was then followed by an initiative of the Bulgarian Industrial Association, culminating in 2003 with a tripartite agreement on coordination and cooperation with a view to improving the implementation of safety and health activities. In Moldova, the inspectorate has recently signed collaboration agreements with the most representative workers’ and employers’ organisations.

In Sweden, inspectors often send letters to the workers and employers of a given company, indicating the aims and programme of the inspections, and request comments. The responses received are taken into account when planning inspections and establishing technical requirements. Many brochures and documents containing information are also handed out during the visits.

In Poland, the regional inspectors call meetings with employers from various branches of industry, with the aim of discussing issues and explaining the most common risks and the measures which could be adopted, which are then monitored in subsequent visits which may follow the presentations.

In the Netherlands, since 2004, when the programme, “a different government”, was launched, the inspectorates were streamlined, resulting in improved communication and sharing of data between the inspectorates, with the support of the social partners. The

³⁹ ILO: General Survey of reports concerning Labour Inspection Conventions and Recommendations, ILC 95th Session, Report III (Part B), Geneva.

purpose of the programme is to avoid overburdening companies with an excessive number of successive inspections. It has been implemented in seven sectors of the economy.

In Cyprus, the National Declaration on policy in the field of occupational safety and health was signed in 1995, with a view to reducing accidents at work and occupational diseases, as well as promoting education and professional development. This document defined the obligations for the parties involved and particularly aimed to improve legislation in that field by establishing a tripartite agreement for collaboration in the field of occupational safety and health.

In Portugal, the National Action Programme for growth and jobs (2005-2008), drawn up in consultation with social partners by the Permanent Committee for Social Consultation, provided for measures to improve working conditions and balance the rights of workers with the companies' ability to adapt to change by using social dialogue as a tool. These measures included prevention services in companies, which specifically reinforced the monitoring of activities that involved a high risk for workers.

In the Netherlands, collaboration between employers and workers has produced a decrease in the number of people on disability benefits, thanks to improvements in working conditions.

Various countries have also taken a number of specific steps, involving the social partners, in the field of undeclared work (see the above-mentioned cases of Belgium and Poland).

In 2004, the Health and Safety Executive in the United Kingdom published a strategy on safety and health 2004-2010. This strategy acknowledged changes in the world of work, and the fact that the resources available to the safety and health authorities (HSE) –including the inspectorate– were insufficient across large portions of the spectrum of workplaces and that it was necessary to focus on priority areas where they could have the maximum impact. It was also acknowledged that traditional interventions by inspectors may be less effective at dealing with occupational diseases as compared to those in the field of safety at work. One of the key aspects of the strategy consisted in acknowledging that long-term improvements could only be achieved by ensuring the goodwill of people involved in the workplace, instead of forcing them to accept the measures imposed. The strategy was published following consultation with employers, trade unions and other interested parties, amounting to over 2,500 people.⁴⁰

Many countries have committees that deal with issues relating to occupational safety and health in specific types of workplaces or companies (for example, the joint committees established in France, Hungary, Italy, Lithuania and Poland).

In a given company or establishment, collaboration between the inspectorate and the social partners is frequently established thanks to contact, either continued or sporadic, with designated worker and safety delegates. In Sweden, in workplaces with more than five employees, workers need to elect at least one employee who can request that the employer adopt the necessary measures to ensure a satisfactory working environment, from a safety and health point of view. This representative may also turn to the authorities in charge of monitoring the working environment if the requests made are not implemented or if there are delays. If there is any imminent danger, the representative can order work to be suspended until the authorities reach a decision regarding the case, and can order the workers not to perform the work the employer has requested, if it violates a decision made by the afore-mentioned authorities. In Slovenia, the delegate for safety also has an

⁴⁰ Cf. Ellis, *op. cit.*

important collaborative role, namely they can request an inspection and participate in the visit. Moreover, the employer must keep them informed of the outcome of the inspection.

In Belgium, measures have been adopted, including a safety and health charter called “Main employers/Subcontractors”, drawn up by certain employer organisations, which aims to achieve the optimal integration of occupational safety and health into all subcontracting work, thanks to collaboration between the main employer and the subcontractor. This facilitates the application of the principles of prevention, integration, negotiation, harmonization, communication and coordination. An inspection index (called “contractor work”) is used and is based on chapter IV of the Act of 4 August 1996 on the welfare of workers in the performance of their duties. This index is used in order to assess the commitment of the main employers to the wellbeing of external workers who are required to work in their installations. It also assesses the commitment of the direct employers of these workers. Applications to sign up to this Charter are submitted to the Directorate for Monitoring Welfare at Work, which certifies that the candidate company has not, during the six months prior to the application, been the subject of any definitive conviction in court, or been issued an administrative fine or been ordered to cease its business activities (these business activities must be related to events which have taken place in the past three years). This certification allows the company to sign up on the website, namely at <http://www.chartedeseurite.be>. The company is thus given positive publicity, as it is classed as a company, which operates correctly, and in a trustworthy manner, investing in the health and safety of its workers. This then allows it to use the logo of the Charter in its correspondence, offers, etc. and means that it is subject to less frequent visits from the labour inspectorate in the field of occupational safety and health. One of the practical consequences of these measures is a decrease in accidents at work and a reduction in insurance premiums.

There is data available showing a close connection between the existence of worker representation in the field of safety and health within a company (and, ultimately, tacit and specific collaboration with the inspection services) and effective protection. In Spain, the INSHT (National Institute for Safety and Health at Work) suggests that companies which did not implement preventative measures made up 76.2 per cent of companies without worker representation. The *Prevea* programme in Spain (inspired, to a certain extent, by experiences in Denmark), and managed by the inspectorate, promotes –on a voluntary basis– the reduction of accidents at work, with the support of all actors within a company, thereby resulting in a reduction in social security costs. Companies which sign up to *Prevea* benefit by not being featuring in the list of planned visits (not lists established in response to complaints or in the event of labour accidents). These companies also specifically receive specialized technical advice.

Trade unions play a more active role in “inspections”, and are able, in certain cases, to request broader powers to take preventive action in the field of prevention. Thus, in certain places, such as the Nordic countries, worker representatives have the collective right to suspend a company’s activities in the event of imminent danger.

2.9 Major challenges

2.9.1 *The fight against undeclared work*

The fight against undeclared work in the European Union⁴¹ has become a key concern since the nineties. Undeclared work is still a constant source of concern, reflecting a general problem which implies a need to monitor this multi-faceted phenomenon (which can include human trafficking and forced labour) and where the legal issues are linked with social issues, including marginalisation, migration policies, protection of workers and, in particular, vulnerable workers.

Most undeclared work involves small companies, or at least those with fewer than 50 workers, and sectors such as the construction industry, small-scale retail, hospitality and transport. Local inspection campaigns focusing on these sectors are effective in practice.

In 2004, the European Commission drew up macroeconomic estimates pertaining to undeclared work among Member States, which, of course, do not take recent developments into account (the rise in immigration and regularization campaigns) or the impact of the recent economic crisis. Certain important variations between countries became visible, such as the fact that undeclared work could represent up to 20 per cent (or even more) of the GDP in certain countries in southern and eastern Europe. Although this data remains valid overall, the strong impulse to create new jobs seen in recent years has resulted in a decrease of this phenomenon in certain new Member States. These figures also apply to other European countries affected by similar economic and social problems.⁴²

The main reasons for undeclared work⁴³ in Europe involve the following conditions:

- the failure to register companies (and therefore the lack of a formal existence) and draw up formal contracts;
- the failure to comply with social security obligations; and
- a lack of effective or planned control measures and procedures, which are needed to ensure a stable and solid labour administration and an effective labour inspectorate.

⁴¹ According to the European Commission (Communication of 7 April 1998 - COM (98) 219 final, 07.04.1998) on undeclared work, which affects all Members States of the European Union, “any paid activities that are lawful as regards their nature but are not declared to the public authorities, bearing in mind that differences in the regulatory system of Member States must be taken into account.” This definition excludes criminal activities and professional activities, which do not have to be declared officially.

⁴² There are a number of recent factors which seem to favour undeclared work and, ultimately, informal labour: the increased demand for domestic services and assistance owing to the socio-demographic changes; the appearance of labour relations that have a less hierarchical structure and more flexible remuneration Systems; the boom in self-employment, subcontracting, flexible contracts and ad hoc work; the simplification of the process for establishing cross-border businesses.

⁴³ This refers to labour that is illegal under the provisions of labour law, and not to criminal activities *per se*.

There is no doubt that these issues relate to the activities of the inspectorate, and that effective programmes to overcome this fundamental problem are being sought. Thus, in certain countries, the existence of illegal work has resulted in administrative structures designed to combat it.⁴⁴ Various European countries have also organized promotional campaigns and campaigns to regularize undeclared workers calling on administrative sanctions and involving the supervision of the inspectorate, something that has had a significant impact in terms of new registrations and the formalization process.

The inspectorate has become the key player and first line of defence in the fight against illegal and undeclared work and its need, as laid down in national and international law, to collaborate with other authorities, organizations and social partners, as well as its role as a public authority responsible for ensuring compliance, make it a particularly relevant entity. Its relevancy cannot be overstated and is evident in such cases as that of Spain where breaches of regulations related to contracting of foreign workers are the second most common type of violation in that country, both in terms of numbers and scale (2008, 22,204,859). The importance of this issue does not eliminate the need to streamline the role of the inspectorate, in view of this phenomenon, favouring collaboration with specific authorities, and not adding spurious competences (which fall within the remit of the immigration or police authorities), to its central task of monitoring working conditions⁴⁵.

In Austria, the inspectorate's functions in the field of undeclared or illegal work were transferred to the Federal Finance Ministry on 1 July 2002 (in a similar manner to the Finanzkontrolle Schwarzarbeit in Germany), and a special unit of the border administration, the KIAB (Control of Illegal Employment of Workers), was given the task of checking work permits and, ultimately, the employment of foreign workers. The results of these controls are sent to the relevant competent authorities, which include administrative authorities responsible for imposing sanctions, the monitoring body for industry, the employment services and the labour inspectorate, ensure that they are subject to the relevant procedures. These functions have been transferred to a different authority since January 2007.

In Italy, various structural and legislative measures were implemented when Legislative Decree No. 124/2004 was adopted. The measures focused on strengthening the powers of the Ministry for Labour and Social Policy in the fight against clandestine labour and undeclared work, and emphasised the key role played by the labour inspectors as part of the mechanisms set up for this purpose. The inspectors participate, in a systematic manner, in coordinated operations to combat undeclared work, which does not appear in any way to favour the climate of trust necessary to ensure the collaboration of workers engaged in irregular employment on issues such as the right to residency and work. On the contrary, this role has turned out to be more of an obstacle to inspectors trying to obtain information on working conditions in the companies with a high risk of accidents.

In the Netherlands (see above), an inspection branch was created to combat undeclared work. The inspectorate has continued to recruit more staff since 2003, reflecting the significance of this phenomenon.

⁴⁴ In 1997, France created an inter-ministerial mechanism to fight illegal work. In Italy, the Ministry of Labour drew up a plan to bring out illegal work, which was complemented by a collective agreement in the construction industry.

⁴⁵ In recent years, CEACR has clearly stated its attitude towards the phenomenon of restricting the functions of the inspectorate in Italy and France and in its comments concerning ILO Convention (1947) No. 81 on labour inspection. http://www.ilo.org/dyn/natlex/natlex_browse.home?p_lang=es.

In Poland, inspectors have been assigned to monitor the legality of employment. They collaborate with workers and employers and, more specifically, work to monitor undeclared work and impose sanctions on those who break the law. Created in 1995, the unit's biggest problem has been sustaining its efforts and the cuts to the inspectorate's resources (in 2000 there were 697 inspectors, a figure which fell to 288 in 2008), as well as a certain lack of clarity in terms of legislative provisions which do not clearly specify whether the inspectors may only monitor employers, or whether they can also monitor individuals suspected of being unregistered employers.

In Lithuania, one of the inspectorate's priorities has been to implement a policy to reduce undeclared work. In 2008 alone, 4,554 inspections relating to undeclared work took place, during which 1,623 workers employed without a contract were identified.

In Belgium, the social inspectorate created three websites to monitor foreign companies and thus strengthen the monitoring of undeclared work.

The inspectorate also plays an important role with regard to providing information and advice, especially where a number of European inspectorates need to monitor legislation relating to foreign workers.

At the European level, beyond the need to create national programmes and policies, there are plans to set up collaboration and action programmes involving other authorities (essentially tax and social security) and the social partners, as well as developing a strategic focus that is coordinated at regional level, to ensure vigilance and combat fraud, based on the work and competences of the labour administration authorities.

Certain measures have been put in place at the European level to better identify undeclared work, although there may sometimes be gaps in terms of knowing how to address situations and protect workers, as well as in terms of administrative follow-up action and the measures, which must be implemented.

In Belgium, for example, the DIMONA electronic system (instant declaration system) allows all social security agencies to be notified of any new contract or if a contract is terminated. Equally, the LIMOSA system is a federal government project, which facilitates the monitoring of foreign temporary workers by means of a "one stop shop", in order to prevent fraud. The system register provides a verification document that must be submitted to the third party who employs them and if not available then the third party employer must fill it out within a specific period. In the event of a failure to comply with these obligations, the employer may be subject to sanctions imposed by the inspectorate. The data system is complemented by the OASIS database, which helps the fight against social security fraud in a structured manner. The information and social inspection service was established and implemented in 2006, in order to improve coordination between all the administrative authorities dealing with various aspects of the fight against undeclared work and social security fraud. It involves social security inspectors, inspectors monitoring social legislation in the Ministry for Employment, Labour and Social Consultation, the inspectorate of the National Social Security Office and the inspectorate of the National Employment Office. In addition to carrying out inspections, this entity is involved in investigations and puts forward proposals to the competent Ministers concerning legislation to combat undeclared work.

In April 2001, the United Kingdom established joint local teams to deal with the underground economy, which were involved in collaboration between officials at the Department of Work and Pensions, customs and employment agencies. The aim was to create an integrated means of detecting undeclared work and taking action in specific sectors that may have a high level of undeclared work.

2.9.2. The economic crisis: the role of the inspectorate

It is clear that the global economic crisis has had an impact on all sectors of the economy, as well as a significant social impact on all levels. This has not merely led to a rise in unemployment and job rotation, but radical and progressive changes in certain indicators which have a direct bearing on the activities of the labour inspectorates (both in terms of their work and the labour conditions which they monitor) and, as a result, on efforts to maintain social stability by protecting workers and ensuring that the law is properly enforced.

The recent crisis has produced a number of negative outcomes, including an increase in precarious contracts and fragmented or disguised forms of employment, but it has also led to a decline in the number of accidents and their frequency (in that they affect, proportionately speaking, more precarious workers and young people who are contracted on a far more limited scale). At the same time, however, it has resulted in an increase in stress at work, psychological disorders, cardiovascular disease (and a growing risk of heart attacks as a result of stress caused by possible restructuring) and more prolonged inability to work⁴⁶. The crisis has also led to cuts in investment in the training for workers and the purchase and maintenance of equipment.

It has also resulted in a fall in the number of legal migrant workers which has consequently, wreaked havoc on the labour market. Thus, the government of the United Kingdom has announced a new policy to reduce the influx of qualified migrants, in order to create opportunities for nationals in the British labour market⁴⁷. At the same time, the number of applications filed by workers from the new EU Member States for work in countries belonging to the old EU fell from 53,000 to 29,000 between 2007 and 2008⁴⁸. In addition to this, the crisis has increased the risk of people taking on “irregular” work, thereby affecting the status of those who are already resident in those countries (a drop in permit renewals and the possibility of workers being sent home), as well as new arrivals.

In Sweden, a recent SLIC review revealed that, as a consequence of the economic crisis, human and financial resources allocated to safety and health fell by 31 per cent between 2006 and 2010 (167 fewer people working on inspection or related tasks). These cuts have also had an impact on professional development, funding for communication and training campaigns, as well as leading to a decline in the number of support staff, which has implied a fall in the productivity of the inspectors. As a result, the number of inspections has fallen since 2006, although the number of breaches of legislation and preventative measures taken remains stable.

In Spain, the inspectorate’s work doubled, with regard to cases relating to the regulation of employment, closures or downsizing, a phenomenon that grew by almost 300 per cent in comparison with 2007. Thus, for 2009, the Labour Ministry indicated that there was a need to increase inspections by 30 per cent during the crisis, in view of the fact that during such periods, (in addition to the possible growth of parallel economies which may almost become a permanent trend), the measures used to prevent accidents at work, and therefore the life and health of workers, may be affected.⁴⁹

⁴⁶ Source Yuka Takala, presentation to the 56th SLIC meeting, 28 May 2009, Prague.

⁴⁷ See Azfar Khan, Rola Abiomourched and Ruxandra Oana: *The global crisis and the impact on Migrants* (Geneva, OIT, 7 April 2009).
<http://www.ilo.org/public/english/support/lib/financialcrisis/featurestories/story11.htm>

⁴⁸ UK Border Agency: *Inimigation and asylum statistic releases* (24 February 2009).

⁴⁹ *El periódico*, Madrid, Edition published on 23/3/2009.

As has already been mentioned, in other countries, such as Greece, the crisis fostered debate concerning new legislation in the field of labour inspection (see above) which would increase staffing levels, especially in areas with the highest level of economic activity. In Romania, the inspectorate has been involved in monitoring of the impact of the crisis and in 2008, the campaign to monitor undeclared work was also in line with this objective.

In January 2009, the Serbian Ministry for Labour and Social Policy set up a crisis committee, which included the inspectorate and the social partners, at which, one of the main agreements focused on the key task of ensuring that inspections were more frequent. However, this goal has not succeeded in practice, as the monitoring of undeclared work remains in the hands of the inspectorate.

Broadly speaking, the crisis has reignited the debate about the role of the state with regard to governance, as well as its central role as a regulatory agent in terms of monitoring not only the financial markets, but also social matters. Strengthening the labour inspectorates and all administrative functions in general, is acknowledged as an essential step towards preventing and counteracting the negative impact of the crisis.

2.9.3. Certain comments for the future

There is no doubt that the European Union has a mosaic of labour inspectorates making a diversity of contributions at the national and regional levels (one might go as far as to say, at the global level). This progressive path does not mean that there are no goals to attain and that it is not necessary to set new targets to serve as a point of reference for improving the actions of governments with respect to achieving an effective labour inspectorate.

The economic crisis affected and restricted the social framework/fabric and created problems, sometimes on an uncontrollable scale. These restrictions need to be attended to in a manner that requires imagination, coordination and innovation. On the other hand, the regional dimension provides a clear advantage, which should be exploited from every angle. In the end, there is a need to focus on certain issues, such as the priority areas for European action, in terms of achieving an effective labour inspectorate system:

- a) Drawing up national policies and programmes, which allow countries to meet the current needs of the world of work, especially in view of the economic crisis. The dominance of non-permanent contracts, the existence of new forms of employment and labour relations which are difficult to identify due to the complexity of existing connections/relations, the emergence of new occupational risks, such as psychosocial risks, new forms of organization and working time, and where all of these issues appear against a background of constant change, has meant that new competences, methods and ways of taking action are required, which need a specific focus that moves beyond existing campaigns and involves a real social commitment. The inspectorate should guarantee protection and ensure the enforcement of labour legislation using all the means at its disposal.
- b) Lifelong learning. Initial training should be followed by lifelong, structured training/learning which enhances performance quality and quantity. With a view to this, educational programmes should be drawn up by the Ministry, the ministerial body responsible for public administration and, if necessary, in conjunction with pedagogical bodies, and should address technical, procedural, behavioural and administrative issues. Action should particularly focus on the training of the technical safety and health inspectorate, connecting of observations and processes pertaining to sanctions, especially in relation to technical inspections. Training should be based on an assessment of the staff, the unit's performance and the

annual programming itself, which should be flexible concerning issues in a changing world.

- c) Cooperation with public and private institutions with regard to the inspectorate's operations. Joint work with other administrative authorities will bear fruit, and proof of this can be found in the previously mentioned activities in the field of child labour and forced labour. Similarly, self-assessments and assessments carried out prior to monitoring activities, as well as monitoring measures, can also help to create a culture of compliance. This does not mean private inspections but work to support and strengthen the role of the public inspectorate, to ensure cooperation with the inspectorate, in order to improve working conditions at an internal level. Cooperation between public administrative authorities is a vital step towards achieving a successful and effective inspectorate in the field of monitoring, and a prerequisite for this is the existence of a monitoring authority with budgetary funds and resources, which can realize common goals.
- d) Strengthening relations with worker and employer representatives, both from the point of view of training and information, and promoting the idea that the inspectorate operates in the general interest and helps to improve labour relations and the safety and health of workers. At the same time, planning activities and the inspectorate's actions should be focused on reviewing results, establishing criteria for follow up activities and collaboration. It is vital to ensure that the entire population is aware of the work of the inspectorate and, in this respect, the media has a key role to play.
- e) Improve administrative procedures and provide an incentive to enhance the deterrent effect of fines. The administrative process should be based on the principle of immediate and effective action, and fines should be issued to motivate companies to correct what is wrong. It is vital for the inspectorate to establish appropriate sanctions and processes for imposing fines, as well as fast judicial proceedings, following the principles of due process, and a well-structured and peremptory process which could really collect the fines imposed. The sanction proceedings in the case of immigrant or displaced workers must be clarified as a matter of urgency.
- f) Improve international collaboration. Although the SLIC embodies the idea of international collaboration, its own definition, which focuses quite exclusively on safety and health inspections, may hinder certain countries from setting up a specialized inspection system to fully meet monitoring needs in the world today. The relationship between safety and health and working and employment conditions is becoming increasingly clear and there is a risk of bias and of the failure of seeing the bigger picture if only technical prevention measures, which focus on the safety and health, are used to protect the workers. Working time or stress caused by economic factors could pose more of a risk than defective machinery.

These conclusions are not exhaustive, and a large number of other additional measures and specific policies are needed.

As already stated, the majority of European countries have ratified ILO Convention No. 81, and a smaller percentage has ratified Convention No. 129 on agricultural inspection. However, the ILO Committee of Experts on the Application of Conventions and Recommendations sends various observations and direct requests to European governments, on an annual basis, regarding key problems that need to be addressed immediately.

There is no doubt that European labour inspectorates are at the forefront of implementing innovative and coordinated measures. However, as we have indicated in the preceding pages, much remains to be done.

The Labour inspectorates perform a vital function, one that must adapt to changes in the world of work and is essential in order to achieve compliance with labour legislation. It is only in this way, systematically, that social peace, which is the ultimate objective of labour legislation, can become a reality.

Annex 1

List of ratifications of international labour conventions on labour inspection, European countries

Countries	C. 81	C. 129	C. 178
Albania ^(*) <i>Has adopted article 5, paragraph 1 a) and b)</i>	18.08.2004	11.10.2007 ^(*)	24.07.2002
Germany	14.06.1955	26.09.1973	
Armenia	17.12.2004		
Austria	30.04.1949		
Azerbaijan ^(*) <i>Has ratified the Protocol of 1995</i>	09.08.2000 ^(*)	09.08.2000	
Belarus	25.09.1995		
Belgium	05.04.1957	08.09.1997	
Bosnia and Herzegovina	02.06.1993	02.06.1993	
Bulgaria	29.12.1949		09.06.2005
Cyprus ^(*) <i>Has ratified the Protocol of 1995</i>	23.09.1960 ^(*)		
Croatia	08.10.1991	08.10.1991	
Denmark	06.08.1958	30.11.1972	
Slovenia	29.05.1992	29.05.1992	
Spain	30.05.1960	05.05.1971	
Estonia	01.02.2005	01.02.2005	
Former Yugoslav Republic of Macedonia	17.11.1991	17.11.1991	
Finland ^(*) <i>Has ratified the Protocol of 1995</i>	20.01.1950 ^(*)	03.09.1974	24.02.1999
France	16.12.1950	28.12.1972	27.04.2004
Greece	16.06.1955		
Hungary	04.01.1994	04.01.1994	
Ireland ^(*) <i>Has ratified the Protocol of 1995</i>	16.06.1951 ^(*)		22.04.1999
Iceland	24.03.2009	24.03.2009	
Israel	07.06.1955		
Italy	22.10.1952	23.06.1981	
Kazakhstan	06.07.2001	06.07.2001	
Kyrgyzstan	26.07.2000		
Latvia ^(*) <i>Has adopted article 5, paragraph 1,b)</i>	25.07.1994	25.07.1994 ^(*)	
Lithuania	26.09.1994		
Luxembourg	03.03.1958	08.04.2008	30.11.2005
Malta ^(*) <i>Excluding part II</i>	04.01.1965 ^(*)	09.06.1988	
Republic of Moldova ^(*) <i>Has ratified the Protocol of 1995</i>	12.08.1996 ^(*)	09.12.1997	
Montenegro	03.06.2006	03.06.2006	
Norway ^(*) <i>Has ratified the Protocol of 1995</i>	05.01.1949 ^(*)	14.04.1971	11.06.1999
Netherlands	15.09.1951	29.06.1973	
Poland	02.06.1995	02.06.1995	09.08.2002
Portugal	12.02.1962	24.02.1983	
United Kingdom ^(*) <i>Excluding part II</i>	28.06.1949		02.07.2003
Romania	06.06.1973	28.10.1975	
Russian Federation ^(*) <i>Has ratified the Protocol of 1995</i>	02.07.1998 ^(*)		
Serbia	24.11.2000	24.11.2000	
Sweden ^(*) <i>Has ratified the Protocol of 1995</i>	25.11.1949 ^(*)	14.05.1970	15.12.2000
Switzerland	13.07.1949		
Turkey	05.03.1951		
Ukraine	10.11.2004	10.11.2004	

Labour inspection convention (industry and trade), 1947 (No. 81)

Labour inspection convention (agriculture), 1969 (No. 129)

Labour inspection convention (seafarers), 1996 (No. 178)

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