The World Bank

International Experiences in Reforming Labor Inspection Services

Technical Note for the Government of Ukraine

This short note has been prepared at the request of the Ministry of Social Policy of Ukraine to the World Bank. The note was compiled by Arvo Kuddo (Human Development Network - Social Protection) and Anna Olefir (ET Consultant, Europe and Central Asia Region - Human Development Sector, ECSHD) and benefited from comments and editing by Johannes Koettl (Team leader, ECSHD).

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Executive Summary

Labor inspection services cover a set of five operational functions:

1. They have a promotion function, raising awareness of standards and national regulations that give effect to them, as well as disseminating best national and international practice.

2. They have an advice and information function, putting their knowledge and expertise to use in helping resolve specific issues during on-site inspections or, in a more prevention-oriented manner, in their contacts with the duty-holders and their organizations.

3. They have an education function, often exercised in training for employers and workers, labor court officials, other government agencies and NGOs.

4. They have a monitoring function, observing, keeping track of and reporting on compliance levels in enterprises, economic sectors, and the country as a whole.

5. They have an enforcement function, ensuring compliance with the Law.

Specific reform issues to achieve a modernized labor inspection services are:

- Modern inspectorates aim for a goal of 60 percent proactive inspections, and 40 percent reactive (accidents, complaints) based on an application of risk prioritization towards highest risk workplaces.

- Advice to and stimulation of employers to implement the legal requirements is the modern approach to compliance. Labor inspectors are obliged to first and foremost advise the employers and employees to fulfill their obligations, whilst leaving the option of punishing grave and consistent violations.

- International studies of best practice highlight a number of characteristics of high-quality, well-functioning labor inspection services. These include adequate resources (both staff and infrastructure); recruitment and training policies designed to attract and retain high quality inspectors; central administration to improve consistency and reduce duplication; preventive targeting of firms based on risk; integration of different types of inspections to reduce the inspection burden on business; and a focus on prevention and education as well as enforcement. Good cooperation is, in particular, required between the labor inspectorate and other agencies, social partners, institutions and NGOs.

- Lack of public awareness on legal rights associated with employment may also impair the enforcement of the law in a number of countries. Workers should know their legal rights and how to enforce them. Evidence, to the contrary, suggests that public opinion is often ill-informed. Running campaigns to inform individuals of their legal labor-related rights is thus crucial.

With regard to reducing informal employment, labor inspection services should focus on:

- Preventive actions: The aim is to simplify procedures and reduce the costs and constraints which limit the creation and development of businesses, in particular start-ups and small undertakings; to remove disincentives to declare work on both the demand and the supply sides;

- Sanctions: The aim is to strengthen surveillance and to apply appropriate sanctions in respect of those who benefit from clandestine labor and also to protect the victims,
notably through better coordination between the relevant authorities (tax offices, labor inspectorates, police);

- **Campaigns to raise social awareness:** The aim is to nurture a culture of high tax morale and rule of law. Inform the public about the negative implications of undeclared work for social security and the negative consequences of undeclared work for solidarity and fairness. Many countries have launched communication campaigns to change public perceptions. These campaigns have tried to emphasize different core messages. For example, in 2006, the U.K. focused on positioning tax evaders as a minority that damaged the interests of the majority. Some campaigns have targeted high-informality sectors. One example is the Canadian construction industry which focused on consumers, informing them of the legal and financial disadvantages of “cash deals” and linking quality and professionalism with registered contractor. Hungary’s “Fair Play” campaign in 2007 emphasized, among other messages, the damage that tax evasion does to the country’s financial situation.
1 Introduction

In many countries, employment laws are often ineffective because of evasion, weak enforcement and failure to reach the informal sector. Even though labor legislation might be rigid de jure, de facto it is not enforced and is widely evaded. Achieving greater labor market flexibility through non-enforcement of laws is not an optimal choice because it undermines the rule of law, exposes firms to costly uncertainty, impedes decent formal employment growth and leaves workers without adequate protection (Rutkowski and Scarpetta 2005).

Enforcing the implementation of even the most basic of core labor standards is difficult. Countries that have adopted the conventions have not necessarily developed the accompanying laws and regulations. Even when these laws and regulations are in place, implementation and enforcement is a challenge. An example is child labor: a majority of countries have adopted and converted into law ILO Conventions 138 and 182, but according to the ILO 218 million children were engaged in economic activity in 2007, of which 126 million were in hazardous forms of work. Moreover, most of the regulations only reach the formal sector which represents less than 30 percent of the global labor force. Workers in the informal sector are seldom organized, more prone to suffer from abuse and discrimination, and more likely to lack access to social insurance arrangements.

Thereby, many countries need to develop a modern Labor Inspectorate to effectively enforce core workers’ rights by creating and developing effective and functional legal framework for labor enforcement to improve prevention measures, foster incentives to improve labor conditions instead of compensation, supervise the implementation of labor regulations, and provide prevention-focused technical and advisory services to enterprises.

Labor inspection is more than a mere bureaucratic organization, or simply a technical “tool”. As highlighted by ILO, it is “a force for reform and a powerful means of initiating change” (ILO 2003). The 2006 ILO General Survey Report of the Committee of Experts on the Application of Conventions and Recommendations underscored this, calling on governments to recognize the “vital contribution to development and social cohesion made by an effective labor inspection service”(ILO 2006).

2 The Functions of Labor Inspections

Labor inspection is today universally recognized as operating at the point where law, technology and political, social and economic reality meet (TNO 2008). It is now widely seen as a multi-dimensional activity that has political, economic, cultural and social contexts as well as those that are technical, medical and legal in nature. Labor inspection thus finds itself confronted with complex challenges which involve balancing the demands of more traditional industrial health and safety problems against the demands arising from the changing economy and the changing perception of the role of labor inspection. Acknowledging all of this implies a need for approaches that are more holistic, integrating improvements to the work environment, with methods that seek to secure “well-being at work” in its broadest sense. Such approaches have as their foundations:
1. The requirements of existing ILO Conventions, notably Convention No. 81 on “Labor Inspection in Industry and Commerce”;
2. The EU Framework Directive 391/89 and its related Directives with their focus on health and safety management systems;
3. The objectives laid down in the EU Community Occupational Safety and Health (OS&H) Strategy 2002-2006, “Adapting to change in work and society”, which has as its aim, the constant improvement of well-being at work; and the new OS&H Strategy 2007-2012: “Improving quality at work”.

Besides ILO C. No. 81, the Framework Directive thus also provides a legislative basis for the scope of labor inspection in the EU as it defines the general application of EU health and safety law. The Directive applies to virtually all sectors of economic activity, including public and informal sectors.

It is noteworthy that in discussions at the ILO (on the Committee of Experts’ 2006 Report on Labor Inspection), the employer members were the first to emphasize that labor inspection is the principal, strategic government institution that sustains international labor standards once they have been incorporated into laws and regulations, and ensures that ratified standards are implemented in practice. The employers considered a functioning labor inspection system as an essential condition for good governance in the world of work. It promotes a stable business climate, which is an indispensable element for investment, economic growth and job creation. Investors today are not attracted by weak enforcement, as the reputation and other risks of doing business in weak government zones are too high. Businesses are instead attracted to investment environments where sound laws are being implemented and effectively enforced. In the same discussion, the workers felt it was of crucial importance that all countries recognize the pre-eminent role labor inspection played not only for the health of workers, but also for the health of the economy. They emphasized the need to have a “classical” regulatory frame for labor inspection, and reaffirmed Member States’ responsibilities concerning ratification of Conventions, and guarantees to apply the law.

Labor inspection services usually cover a set of five operational functions:

First, they have a Promotion function, raising awareness of ILO standards and national regulations that give effect to them, as well as disseminating best national and international practice.

Second, they have an Advice and Information function, putting their knowledge and expertise to use in helping resolve specific issues during on-site inspections or, in a more prevention-oriented manner, in their contacts with the duty-holders and their organizations.

Third, they have an Education function, often exercised in training for employers and workers, labor court officials, other government agencies and NGOs.

Fourth, they have a Monitoring function, observing, keeping track of and reporting on compliance levels in enterprises, economic sectors, and the country as a whole.
Fifth, they have an Enforcement function, ensuring compliance with the Law.

Modern inspectorates aim for a goal of 60 percent proactive inspections, and 40 percent reactive (accidents, complaints) based on an application of risk prioritization towards highest risk workplaces (TNO 2008).

However, as far as the enforcement of the employment law is considered, the law often puts an emphasis on punishment and sanctions. There is little room in the text of the law for prevention through advice. Advice and stimulation or motivation of employers to implement the legal requirements is the modern approach to compliance. Labor inspectors are obliged to first and foremost advise the employers and employees to fulfill their obligations, whilst leaving the option of punishing grave and consistent violations.

International studies of best practice highlight a number of characteristics of high-quality, well-functioning labor inspection services. These include adequate resources (both staff and infrastructure); recruitment and training policies designed to attract and retain high quality inspectors; central administration to improve consistency and reduce duplication; preventive targeting of firms based on risk; integration of different types of inspections to reduce the inspection burden on business; and a focus on prevention and education as well as enforcement (OECD 2008; Schrank and Piore 2007; ILO 2006; Treichel 2004). Good cooperation is, in particular, required between the labor inspectorate and other agencies, social partners, institutions and NGOs.

It is the recommendation of ILO (2006) that advanced countries have at least one labor inspector per 10,000 employed persons and that transition countries have one inspector per 20,000 employed persons. In the emerging market economies, Hungary, Poland and the Slovak Republic meet the recommended number of inspectors for advanced countries, and the Czech Republic meets the transition country guidelines.

Finally, lack of public awareness on legal rights associated with employment may also impair the enforcement of the law in a number of countries. Workers should know their legal rights and how to enforce them. Evidence, to the contrary, suggests that public opinion is often ill-informed. Running campaigns to inform individuals of their legal labor-related rights is thus crucial.

3 Labor Inspection Essentials
The basic foundations of Labor Inspection must be clearly and concisely expressed, and its activities based on internationally recognized standards: the ILO Conventions (and the Protocol of 1995 to C. No. 81); and the EU Senior Labor Inspectors Committee’s “Common Principles of Labor Inspection for OS&H”. The salient features of ILO C. No. 81 can be briefly summarized as follows:
1. Labor inspection should be organized as a system (Article 1) applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable (Article 2);
2. It should cover a basic set of functions, such as hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters (Article 3.1);
3. Inspectors should supply information and advice to employers and workers on how to comply with the law, and alert the competent authorities on any defects or abuses not covered by existing legal provisions (Article 3.1);
4. Labor inspection should be placed under the supervision and control of a central authority (Article 4.1);
5. Effective cooperation with other government services and private institutions (NGOs) engaged in labor protection, as well as with employers and workers and their organizations should be promoted (Article 5);
6. Inspectors should be public officials assured of stability of employment and independent of changes of government and improper external influences (Article 6);
7. They should be recruited with sole regard to their qualifications and adequately trained for the performance of their duties (Article 7);
8. Their number should be sufficient to secure the effective discharge of these duties in regard to, inter alia, the number, nature, size and situation of workplaces, the number of workers employed, and the number and complexity of the legal provisions to be enforced (Article 10);
9. They should be properly equipped with local offices and transport facilities (Article 11);
10. They should be provided with proper credentials and properly empowered (Articles 12 and 13);
11. Workplaces should be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions (Article 16);
12. Adequate penalties for violations of legal provisions enforceable by labor inspectors and for obstructing inspectors in the performance of their duties should be provided for by national laws and regulations and effectively enforced (Article 18); and
13. An annual report on the activities of the labor inspectorate should be published, distributed to the social partner organizations and all other stakeholders and also sent to the ILO.

4 Specific Reform Issues
The following issues will need to be addressed when developing a new legal frame for the Ukrainian Labor Inspection Service:

4.1 The independence of the inspectorate and its inspectors
The task of the Labor Inspection is to supervise and control that employers and workers and other duty-holders implement the laws and regulations on conditions of employment, OS&H and working conditions. To be able to achieve this, the Labor Inspection needs to be financially independent and neutral in relation to trade unions and to employers’ organizations;
4.2 An information and advisory approach aiming at prevention
One of the main functions of Labor Inspection, according to ILO C. No. 81, Article 3, para 1, is to provide information, organize awareness raising and, firstly, to advise employers and workers on their duties, i.e. the best way of complying with the Law, before using enforcement measures such as fines or other sanctions;

4.3 Promotion of social dialogue in labor protection
This should be organized both at national, sector and enterprise levels. Social partnership structures at enterprise, such as bi-partite safety committees have to be given proper information and training. Only then can they provide much needed support for the Labor Inspection;

4.4 The effective enforcement of labor legislation
Although the Labor Inspection should first of all take an informative and advisory approach, it must also have the necessary means and rights (also in practice) to enforce the law without interference;

4.5 Employers’ duties
Modern OS&H and its enforcement through Labor Inspection is based on the concept of unequivocal employer responsibility. It is his/her duty to provide legal conditions of employment and safe working conditions at his/her cost must be clearly stated. The old “tradition” to ask for State or outside support should no longer apply. This principle concerns all costs related to the provision of requested information, risk assessment and measurements of the level of working conditions. The onus must be on the employer to show that working conditions are in conformity with the law;

4.6 The relation between the seriousness of the violations
The relationship between the requirements of the law and corresponding sanctions needs to be clarified. Sanctions have to be in proportion to the violation of the legal requirements. As a rule, sanctions, to be effective, should be used strategically, not routinely.

4.7 Effective monitoring and reporting and priority-setting structures and procedures
Such structures and procedures are the pivot of modern Labor Inspection management.

4.8 Social dialogue on labor protection
In well-functioning (“high-performance”) Labor Inspection systems of other industrialized market economies, such social dialogue provides the foundation for effective labor inspection work. Typically, in the Netherlands, (or Germany, the Nordic countries, the UK), the Labor Inspection consults the social partner organizations at national and sector levels on where they see the problems and then agree targets, projects, campaigns, etc. on an annual or even quarterly basis.

This consultation process creates transparency, higher levels of acceptance, and “ownership” of the compliance process among the duty-holders. Further, Labor Inspectors in many countries have an obligation to “stimulate” (Netherlands) or “animate” (France) cooperation and dialogue
among the parties in enterprises. Measures must be designed to develop such social dialogue on labor inspection and OS&H at all suitable levels.

5 Informal Work

Labor market regulations can be a potentially important disincentive for employers to hire workers in formal jobs. Restrictive and costly hiring and firing rules, constraints on the deployment of workers, inflexible wage setting, and high minimum wages are all aspects of labor market regulation that can discourage firms from hiring employees, especially in registered positions.

A high level of informality also can undermine the rule of law and governance. The fact that a large share of the population is openly ignoring laws, regulations and taxes can weaken the respect citizens have for the state. This situation also means that a significant share of the population does not have access to formal instruments to protect themselves against economic risk.

In the European Union, relevant policies on the issue are based on four main pillars:

1. preventive actions: the aim is to simplify procedures and reduce the costs and constraints which limit the creation and development of businesses, in particular start-ups and small undertakings; to remove disincentives to declare work on both the demand and the supply sides;
2. sanctions: the aim is to strengthen surveillance and to apply appropriate sanctions in respect of those who benefit from clandestine labor and also to protect the victims, notably through better coordination between the relevant authorities (tax offices, labor inspectorates, police);
3. cooperation between Member States with a view to combating social security fraud and undeclared work in the framework of transnational economic activities;
4. a campaign to raise social awareness as regards the negative implications of undeclared work for social security and the consequences of undeclared work for solidarity and fairness.

Improved law enforcement and the application of sanctions can be achieved through (i) better cooperation between the relevant authorities (inter alia tax offices, labor and social inspectorates, police); (ii) reinforcement of the number of labor inspectors, better working conditions and performance based remuneration systems; (iii) investment in training to update knowledge and develop skills in relevant areas of expertise.

Detection and enforcement measures applied in particular in OECD countries include information exchange (linking computer files); unique social security numbers; cooperation between labor, social security and tax inspectorates; administrative requirements for immediate declaration of new hires; making chief contractors responsible for tax compliance by subcontractors; encouraging employer and trade union denunciation of unfair competition; enforcing employees’ rights such as protection against unfair dismissal, even within undeclared relationships; and strict sanctions.
Also the European Commission's Green Paper (2006) on Labor Law highlighted a need for more effective cooperation at national level between different government agencies, such as labor inspectorates, social security and tax authorities, and stated that "improvements in the resources and expertise of these law enforcement authorities, and in their cooperation with partners, can contribute to reductions in the incentives to undeclared work".

Trade unions (or other representatives of the employees) can also play a role in reducing undeclared work. They are best positioned to assess the situation in their enterprises and industries and, through collective bargaining, develop rules that determine such important matters as wages, benefits, and overtime and part-time work arrangements, without sacrificing an appropriate level of social protection. This would enable workers to benefit from de facto rather than just de jure employment protection because, by being partners in a negotiated settlement, their employers would have less incentive for non-compliance, and enforcement would be easier.

Collective agreements may commit both parties to denounce black-market work. In Belgium, a recent agreement with the Labor Ministry commits the cleaning and transport sectors to informing the public about the quality and guarantees offered by enterprises that respect the law, to notify illegal practices to public authorities and themselves take cases to court. In Switzerland, collective agreements in construction, plasterwork, painting, hairdressing, heating, ventilation, plumbing, metalwork and carpentry contain measures against the grey economy, and have been extended to all employers in these sectors.

Administrative measures have primarily included efforts to strengthen enforcement and compliance. This includes a wide range of interventions including reorganization of agencies involved with compliance; strengthening their capacity; and imposing stiffer penalties for non-compliance. However, administrative measures can also incorporate better public education and information to shape the perspectives of enterprises and individuals in terms of whether they choose to operate in the formal sector or not.

Many countries have launched communication campaigns to change public perceptions. These campaigns have tried to emphasize different core messages. For example, in 2006, the U.K. focused on positioning tax evaders as a minority that damaged the interests of the majority. Some campaigns have targeted high-informality sectors. One example is the Canadian construction industry which focused on consumers, informing them of the legal and financial disadvantages of “cash deals” and linking quality and professionalism with registered contractor. Hungary’s “Fair Play” campaign in 2007 emphasized, among other messages, the damage that tax evasion does to the country’s financial situation. A serious evaluation of the effect of this campaign would be important for informing future communication efforts. (World Bank 2008).

6 Resolution of labor disputes.

Most countries allow for individual worker disputes concerning alleged breaches of employment law to be heard in an appropriate court of justice – whether a specialist labor court or a civil court. For example, in Poland, there were about 180,000 labor law cases brought before the civil courts in 2008, as employees are unwilling to trust methods other than court proceedings. However, court proceedings are lengthy, costly and cumbersome to all the parties involved. So
the countries are looking for the use of means seeking to resolve the problem before a full
hearing takes place, that is, through alternative disputes resolution (ADR) procedures, including
conciliation, mediation and arbitration prior to a court hearing. Five distinct types of ADR are
evident, as follows (Purcell 2010).

1. Conciliation: In this type of ADR, the third party acts only as a facilitator by maintaining the
two-way flow of information between the conflicting parties and encouraging a
reconciliation between their antagonistic positions. In the EU, the countries with established
procedures include Cyprus, Ireland, Italy, Malta, Norway, Spain and the UK. In some cases,
this procedure is compulsory in the sense that the court needs to be satisfied that attempts
have been made to resolve the matter before a hearing commences.

2. Mediation: In this form of ADR, an impartial third party – the mediator – helps two or more
people in dispute to attempt to reach an agreement. Most EU countries have arrangements
for mediation. Most mediation takes the traditional form, whereby the third party hears both
sides and seeks to find an acceptable resolution before issuing a non-binding decision or
recommendation.

3. Arbitration: In this case, the third party hears the case presented by each person and makes a
binding ruling on the outcome. It is in use in Cyprus, Slovenia, Spain, Sweden and the UK.

4. Labor inspectors or ombudsmen: Some countries use specialist experts known as labor
inspectors and/or ombudsmen – as seen in Hungary, the Netherlands, Norway and Romania.
Private companies sometimes appoint ombudsmen to deal with individual disputes inside
their workplaces – as is the case in Ireland. In some countries, the ombudsman is appointed
by the state to deal with particular types of disputes, such as discrimination.

5. Non-judicial ADR: These alternative means of ADR involve the social partners engaging in
joint efforts to resolve the problem through negotiation, problem-solving and/or the use of
grievance and disciplinary procedures. In this instance, the case is heard, a decision is made
and there is often the chance of an appeal – all within the workplace or at the level of the
sector and/or region. (See Box 2).

Extrajudicial collective dispute resolution systems for collective disputes are established and
regulated by typically bargaining-based instruments such as inter-professional agreements and
collective agreements. These agreements only regulate conciliation and mediation procedures but
also can - and usually do - set up the body to manage these procedures, and laying down the rules
on the way it is to work. Conciliation, mediation and arbitration institutions or commissions
often tend to be managed jointly and with equal participation by workers’ and employers’
representatives or, at the very least, those representatives play a major role in their management
bodies. (Dal-Ré 2002).
Box 1: Labor inspectors’ role in alternative disputes resolution

Some countries use a labor inspector and also, at times, an ombudsman to provide forms of ADR. The term ‘labor inspector’ often relates more to the nomenclature used in the country, as translated by the national centre, and less to a distinctive type of ADR. In practice, many labor inspectors provide the usual range of conciliation and mediation services. Much will depend on the powers of the inspector, as well as their inclination, to engage in this type of work.

In Luxembourg, the Labor Inspectorate (Inspection du Travail et des Mines) has had responsibility, since 2007, for preventing and resolving individual employment-related conflicts. If an issue goes to court, it can take over a year to be heard. It was hoped that the new law would speed up settlements. The labor inspectors are meant to provide ADR through tripartite conciliation and mediation.

In Greece, there is no specialist labor court. Employment issues are dealt with by the civil courts, but it can take a year for district court cases to be heard. Reliance is therefore placed on the local labor inspectors (SEPE). The inspectors are authorized ‘to intervene in a conciliatory manner in order to resolve any individual or collective labor disputes that may arise and to enforce administrative sanctions’ (Greek EIRO national centre). In practice, once a complaint is made, the labor inspector will convene a three-party meeting between the inspector, employer and employee. Problems arise, according to the EIRO national centre, when the question of enforcement of decisions is considered: ‘What is happening, in practice, is that the SEPE seldom issues fines and, when it does, they are usually very small and not effective as a deterrent and, in many cases, it merely refers the matter to the courts’. As a result, ‘the mechanisms to resolve individual labor disputes in Greece have proven to be extremely inadequate’.

In Estonia, labor dispute committees (LDCs) are established with the local branches of the country’s Labor Inspectorate (Tööinspektsoon). LDCs have three members – including two drawn from nominations by the employer organization and trade union confederation. The Estonian EIRO national centre does not state who the chairperson of the committee is, but presumably it is the labor inspector. In total, there are 11 LDCs in Estonia, with four situated in the capital city of Tallinn. LDCs are independent, extra-judicial dispute resolution bodies and are the most common form of ADR used in this country. They were introduced in 1996 because of the time delays occurring when applications were made to the courts.

Source: Purcell 2010.
Box 2: Social partner involvement in alternative disputes resolution

In Germany, all employees have the right to have their grievances heard by the works council. It is then possible for a company-level arbitration committee to be established. In practice, in most cases where a works council exists, an employee might first address the council; the works council would then seek to resolve the matter with management, sometimes using informal mediation. Where there is no works council, the trade union would seek an out-of-court agreement with the employer. In cases of individual dismissals, the works council must be consulted. Recent evidence shows that only 12 percent of forced dismissals resulted in court cases.

In Sweden, individual disputes are mainly solved bilaterally between the social partners at company and/or sector levels, and are regulated by collective agreements. One analysis estimates that about 90 percent of individual disputes are dealt with at the establishment or company level by local trade union representatives and the employer in bilateral discussions. If the local negotiators are unable to resolve the matter, experts from the central staff of the trade union and the employer organization will get involved, taking over the negotiations or assisting in conflict resolution. Only when the matter remains unresolved will it be taken to the labor court.

Source: Purcell 2010.

7 Country Examples of Labor Inspection Reforms to Combat Informal Employment

7.1 Spain

In 2004, a strategic plan was devised to improve Spain’s Labor and Social Security Inspectorate. Among the main objectives of the plan were to increase the number of inspectors, and improve information systems and equipment. The reorganization of information systems has led to considerable changes in the inspectorate’s processes, and in its coordination with other areas of the administration and between citizens and the inspectorate. These improvements have, in turn, enabled the inspectorate to make significant progress regarding the regularization of informal employment. The increase and improvement in resources have allowed for a growth in the scale of the Labor Inspectorate’s operations. For 2008, it was planned to increase the proportion of inspections by 10%, up from 208,000 inspections in 2007. The 2007 inspections disclosed irregular employment in the case of some 25,813 workers, and sanctions were imposed amounting to the value of over €78 million. In addition, 288,253 temporary contracts were investigated and a further 50,154 were transformed into indefinite contracts without sanctions.

7.2 Romania

The Romanian Labor Inspectorate established in 1999 works through its 41 local inspection offices around the country. In recent years, the fines applied by it for undeclared work accounted
for 40% to 50% of all the penalties that it enforced. However, its regular inspections also aim to provide educational, information and technical assistance services to employers and employees on the provisions of labor legislation, assess the main reasons behind undeclared labor and encourage legal employment.

### 7.3 Portugal

In Portugal the adopted Inspection Action Plan for 2008–2010 of the Authority for Working Conditions included a specific measure aiming to combat undeclared and irregular work in the country. It had a nation-wide scope and covered all sectors of economic activity but put a special focus on the construction sector and hotels and restaurants. Annually 12,000 establishments had to be inspected with a minimum of 60% of the inspections concerning undeclared work.

### 7.4 Slovakia

Several thousand controls of undeclared work are conducted each year by Slovakia’s labor inspector authorities. Labor inspection authorities can impose fines in cases of violations, as well as prohibit them from taking part in public procurement. For a person performing undeclared work the most serious penalty is the removal from an unemployment registry. For example, in the first half of 2008, some 2,294 controls were implemented during which 5,371 person were checked. Controls implemented during this period detected 139 employers which employed 251 persons illegally, including foreign workers. Labor offices imposed 126 financial fines amounting to a total of SKK 652,000 (€22,640) and removed 24 job applicants from the unemployment register. Due to the relatively small number of labor inspectors, employees of the labor ministry offices and the country’s tax offices, as well as police officers, are also involved in the control activities.

### 7.5 Italy

In Italy the inspectors from the Ministry of Labor, Health and Social Policies, and also from the Italian Workers’ Compensation Authority and the National Social Security Institute may suspend work on construction sites if they find that the number of workers not recorded in accounts or other compulsory documentation equals 20% or more of the total regular workforce on the site. The suspension can be ended by regularizing the workers in the company’s documentation. Non-observance of the work suspension order incurs prosecution with a three-month custodial sentence and a fine of up to €206. Construction companies are also obliged to issue their employees with an identity card except for employers with fewer than 10 workers that keep a special day-to-day site register endorsed by the provincial labor directorate. The absence of the register or of the identity cards incurs a fine of between €100 and €500 for each undeclared worker. Also hiring of a new worker must be communicated on the day before the employment relationship begins. Failure to report new recruits incurs an administrative sanction of between €1,500 and €12,000 for each worker. The overall amount of the civil sanctions for the non-payment of contributions and premiums for each worker in the previous period will be a minimum of €3,000, regardless of the duration of employment. Also, the reform of the labour inspection services was introduced in 2004 in the country with an aim to improve coordination.
and information exchange between the various agencies involved, and to move beyond the traditional penalty based approach by also offering advisory services.

7.6 Norway

In Norway the tax authorities, the Labor Inspection Authority and the police work together in carrying out inspections against undeclared work. Coordinated actions are planned and implemented at local and regional level. Over the last few years, such actions have mainly been directed at the construction sector. In order to improve the level of decent work practices and to lower the rate of undeclared work, the Norwegian government has made it compulsory for employers in the construction industry to supply their employees with identity cards. In order to obtain an ID card, both the employer and employees have to be registered in different mandatory registers, including the tax register.

7.7 Lithuania

Inspections with regard to undeclared work are in place in Lithuania since 1997. The controls primarily aim to identify undeclared workers. The main actor involved in the inspections is the State Labor Inspectorate, which conducts about 2,000 controls of undeclared work a year and identifies around 900 undeclared workers every year. Some 200–300 cases dealing with undeclared work are brought before court each year.

7.8 Sweden

In Sweden since 2007 restaurants and hairdressers are obliged to keep a daily staff register which has to include the name of the business, the employees’ names and birthdates and their working hours. The law allows the National Tax Agency to conduct unannounced inspections at workplaces to determine if employers are registering their staff in the correct manner. In 2007, the agency conducted 30,000 visits, reaching the government’s goal of inspections in 80% of workplaces in the restaurant and hairdressing industries. Employers failing to put in place a staff register are charged a fine of SEK 10,000 (about €935 as at 4 February 2009) along with an additional fine of SEK 2,000 (€187) for each employee who is not registered. The National Tax Agency estimates that about 4,200 previously undeclared instances of employment have become legal through the implementation of staff registers. In 2009, plans are underway to implement the successful law in other sectors also.
8 References


