

***The effectiveness of the Labour Law and  
the role of the Labour Inspection  
in  
ROMANIA***

**1. a) *What is the model adopted by your country? Describe the main areas and subjects covered by your system.***

The ILO Convention no. 81 of July 11, 1947, on Labour Inspection in industry and commerce<sup>1</sup> made it mandatory to each and every Member State of the International Labor Organization that is implementing the Convention to set up a Labour Inspection system both in industrial and commercial enterprises. In 1973, Romania ratified the Convention by Decree no. 284/1973, which was the basis of the Romanian social inspection system.

Nowadays, the Labour Inspection is regulated by the Law no. 108/1999<sup>2</sup>. As per Article 1 of this Law, the Labour Inspection Authority is a specialized body with the central public administration that is subordinated to the Ministry of Labour and Social Solidarity (at present Ministry of Labour, Family and Social Protection); its headquarters are located in Bucharest. The Labour Inspection Authority has legal personality and is financed by both the State Budget and extra-budgetary incomes. It oversees local Labour Inspectorates that have legal personality as well and are set up in every county and the Municipality of Bucharest.

• ***Structure of Labor Inspection Authority***

Article 10 of the Law no. 108/1999 reads that the Labour Inspection Authority is headed by a State General Inspector who is appointed by the minister of Labor and Social Solidarity (at present Minister of Labour, Family and Social Protection) by order and is assisted by two State Deputy General Inspectors. Their attributions are stated by the Internal Rules of Organization and Work of the Authority.

The Labour Inspection Authority is made of several departments and offices that are controlled by the State General Inspector and her/his Deputies respectively.

The State General Inspector oversees: the Communication Department; the Public Relations and Emergency Calls Department; the Department of Internal Auditing; the Department of Quality Control of Labor Inspection; the Department of Targets Review; the Office of Human Resources Management; the Legal and Administrative Litigation Office; the Accounting Office; the IT Office; the International Relations Office<sup>3</sup>.

Each of the two Deputy State General Inspectors oversees a Directorate for carrying out the one group of tasks that are incumbent to Labor Inspection, namely **labour relations**, where there are the Directorate for Labour Relations and Registering Control and the Collective Agreements Office; and **health and safety at work**, where there are the Directorate for Health and Safety at Work and the Office of Market Surveillance and Policy Intervention.

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<sup>1</sup> Published in the Official Bulletin no. 81/06.06.1973

<sup>2</sup> Law no. 108/1999 published in the Official Bulletin, part I no. 283/21.06.1999, modified and completed through the Government Ordinance no. 137/1999 published in the Official Bulletin, part I no.461/23.09.1999 and through the Government Decision no. 238/2002 published in the Official Bulletin, part I no. 204/26 03.2002

<sup>3</sup> Article 3 pct. A Labour Inspection rules at [http://www.inspectmun.ro/Organizare/ROF\\_IM\\_ITM/ROF\\_IM.\\_2010.pdf](http://www.inspectmun.ro/Organizare/ROF_IM_ITM/ROF_IM._2010.pdf)

The local Labour Inspectorates are headed by Chief Inspectors that are appointed by the minister of Labour, Family and Social Protection following the proposals of the General State Inspector; its staff includes Labour Inspectors and other categories of personnel (see Art. 11 of the above-mentioned Law). The Chief Inspectors are assisted by Deputy Chief Inspectors; the local Labour Inspectorates include departments and offices that are largely similar to the ones at the national level plus some specific units like public acquisitions and mandatory implementation of rulings<sup>4</sup>.

- ***Competences of the Labour Inspection Authority***

Article 5 of the Law no. 108/1999, republished, reads that the targets of the Authority are as following:

- a. to enforce legal provisions concerning the labour relations, health and safety at work, protection of employees that work in special places and social insurances;
- b. to inform the authorities concerned about shortcomings in enforcing current legal provisions;
- c. to provide information to people concerned by the most efficient means of observing the labour legislation;
- d. to provide technical assistance to employers and employees with a view to preventing professional risks and social disputes;
- e. to table proposals to the Ministry of Labour, Family and Social Protection in order to improve existing legislation and initiate new specific legislative regulations.

Article 6 of the same Law stipulates details of the Labour Inspection Authority tasks:

- a. in the field of the establishment of labour relationship** the Authority controls:
  - the employment and termination of employment of individuals that work under an individual labour contracts or civil contracts;
  - the setting of working hours and observance thereof;
  - the setting and granting of wages and other rights related to the professional activity;
  - the non-discriminatory access to the labour market of all persons, observance of specific regulations concerning labour conditions of the youth, women and certain groups of disadvantaged people;
  - the observance of all the other provisions that are stipulated by the labour legislation and the clauses of collective agreements.
- b. In the field of health and safety at work** the Labour Inspection Authority:
  - provides technical assistance to legal persons in working out programs that are aiming at preventing professional risks and supervises their implementation;
  - carries out, or demands, measurements and analysis of samples of products and/or materials inside or outside units in order to ascertain dangerous situations;
  - orders the cessation of the activity of the unit or the unplugging of technical equipments when finding an imminent danger of accident or professional sickness; and brings the matter to the attention of criminal law authorities, pending on the situation on the ground;
  - issues the labour safety working authorization to the natural and legal persons;

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<sup>4</sup> Article 12, Local Labour Inspection rules at [http://www.inspectmun.ro/Organizare/ROF\\_IM\\_ITM-2010.pdf](http://www.inspectmun.ro/Organizare/ROF_IM_ITM-2010.pdf)

- withdraws the above-mentioned authorization when finding out that the conditions that have allowed for issuing the said authorization do not observe the provisions of the existing legislation anymore;
- investigates labour accidents in keeping with the Implementation Norms on communication, investigation, recording, reporting and registering of labour accidents;
- coordinates training and updating activities of employees in the field of labour relationship and health and safety at work and monitors the formation of experts in the field;
- controls the implementation of legal provisions concerning authorizing protection products, machines, devices and equipments from the labor safety point of view at their entrance on the national territory. The control is carried out by labor inspectors or specialized bodies that are accredited to the Ministry of Labour and Social Solidarity (Ministry of Labour, Family and Social Protection);
- secures the enforcement of legal provisions concerning health at work and removing risks of professional sickness.

The Labour Inspection Authority provides specialized assistance for a fee to requesting parties.

***b) If your country has a federal structure, do you have a single national labour inspectorate, or labour inspection falls within the competence of the different states, provinces, länder, regions or cantons composing your Federation? In which cases labour inspection competence is shared between the federal and the local authorities? Please, give examples.***

Does not apply.

***c) Does your country have a specialized labour inspection on certain industries and activities, e.g. mining, construction, agriculture, forestry, transport, maritime, fishing, commerce and offices, other?***

The Labour Inspectors are selected taking into account these fields of industry.

***d) Are some activities, industries or organizations excluded from the scope of the labour inspection (e.g. cooperatives, craft enterprises, enterprises belonging to the state, enterprises belonging to the armed forces, the central administration, micro-enterprises, family enterprises, other)?***

None.

***2. In addition to labour inspection, some other agencies may be vested with powers to monitor and enforce specific pieces of legislation (e.g. Compliance Safety and Health officers in the case of OSH regulations, Equal Employment Opportunity officers that are responsible for the enforcement of anti-discrimination law, and the like). Please, enounce and briefly describe such agencies if they exist in your country. What kind of relations these agencies entertain with the central labour inspection?***

**Bodies that have attributions in enforcing labor legislation (hygiene and safety at work, discrimination):**

The Monitoring Center for Professional Risks Units (MCPRU) was set up in 2009 (Government Decision no. 1377/2009, Art. 7) as a self-financing structure under the Labour Inspection Authority. Its mission statement is to identify sources of labour risks and steps to be taken with a view to diminishing or removing them in labour units that run professional risks as defined by Law 319/2006 on health and safety at work.

The MCPRU answers to demands issued by professional risks units in the following fields:

- Powders
- Breathable powders
- Noise level
- Vibrations
- Microclimate (temperature, humidity, air-speed)
- Lights
- Toxic and explosive gas

The Government Ordinance no. 137/2000 rules on preventing and sanctioning all forms of discrimination, including the protection of rights to work, to free choice of jobs, to equitable and satisfactory working conditions, to protection against unemployment, to equal pay for equal work, to equitable and satisfactory pay.

Art. 6 of the G.O. no. 137/2000 reads that an administrative sanction shall be imposed when a person is discriminated against in a labor and social protection relationship on grounds of race, ethnicity, religion, social or disadvantaged category, as well as on grounds of belief, age, sex or sexual orientation, with the exception of special cases as stated by the law. The fields where this sanction is imposed are:

- a. concluding, suspension, modification or termination of labor relationship;
- b. defining and modification of job specifications, working place or wage;
- c. bestowing other social rights than the salary;
- d. professional training, development, conversion and promotion;
- e. implementation of disciplinary decisions;
- f. right to joining trade unions and access to trade union-related facilities;
- g. any other labor conditions as stipulated by the law.

It is the National Council for Combating Discrimination, not the Labour Inspection Authority, that investigates and decides on administrative sanctions for the deeds as referred to in the said G.O.

As for the cases when the employer disregards or infringes the provisions of the Law no. 319/2000 on health and safety at work, the competent authority to identify and punish them is shared by labour inspectors and health inspectors with the Public Health Ministry and its respective units.

**3. a) What is the range of penalties available to labour inspectors according to the nature of the violation (e.g. official warnings, fines, injunctions, cease and desist orders, suspension of operations, revocation of business licences, prison sentences or other penal sanctions etc.)? Which procedures are contemplated by law to apply sanctions? Briefly describe the modalities and procedures of the different penalties.**

Article 237 of the Labour Code reads that “The implementation of general and special rulings in the field of relationship of labour, safety and health at work is object to the control

of the Labour Inspection Authority as a specialized body of the central public administration that is subordinated to the Ministry of Labour, Family and Social Protection”.

Likewise, Article 239 of the said Code reads that “The establishment and work of the Labour Inspection Authority are regulated by special law”. This is the Law no. 108/1999: the article 24 of this law reads that labor inspectors are competent to find and impose sanctions on all deeds that are contraventions according to the law and for which it is ruled that the official examiner belongs to the staff of the Ministry of Labour, Family and Social Protection and its local offices.

Article 260, paragraph 1 of the Labour Code stipulates the administrative sanctions and their amount to be implemented in the field of labor relationship; the paragraphs 2 and 3 of the same article read that labor inspectors are competent in finding and implementing administrative sanctions. The Labor Inspection Authority may demand that legal persons be removed from the Trade Registry if grave infringements of the labor legislation are found.

The procedure of finding contraventions and implementing administrative sanctions is stipulated by the Government Ordinance no. 2/2001. As per art. 15 of the said G.O. 2/2001 corroborated with art. 21 of the same, labor inspectors issue a record (procés verbal) to indicate the contravention. As per Art. 16, para. 1 of the said G.O., the record (procés verbal) includes:

- the date and place of the finding;
- name, surname, standing of the official examiner and the body that the official examiner belongs to;
- personal data, including the Personal Numerical Code, the job and working place of the contravening person;
- description of the contravention, including the place and time when it was perpetrated, as well as of the circumstances that may lead to assess the gravity and damages incurred;
- reference to the legal provision that sanctions the contravention;
- reference to the insurance company;
- reference to the possibility of paying of 50 per cent of the minimum amount of the fine in 48 hours, provided that the law allows for it;
- the deadline and the competent body for appeal.

Sanctions are implemented within the limits as provided by the law; they must be proportionate with the degree of the social danger of the deed, with the circumstances under which the deed was perpetrated, with the damage incurred and the goal behind it, as well as with the personal circumstances surrounding the deed.

The labour inspector hands over to the contravening person (employee or employer) a copy of the record (procés verbal) of the contravention and a copy of the payment order. Should the contravening person refuse to sign the report (procés verbal) and/or the payment order, the official examiner shall send the respective document(s) within a month since the date of issue of the said document(s).

The implementation of the fine is valid for 6 months since the date of the perpetration of the contravention (see Art. 13 of the G.O. 2/2001); the fine is also wiped off if the report (procés verbal) is not brought to the knowledge of the contravening person within a month since the perpetration of the contravention (see Art 14 of the said G.O.). The contravening person can appeal against the report (procés verbal) on the finding and sanctioning of the contravention within 15 day since the date of the communication (see Art. 31 of same). The appeal is to be examined by the local court that is competent for the area where the contravention is perpetrated (see Art. 32 of same). Once the appeal is filed, the implementation of the fine is suspended.

***b) To what extent does the law grant labour inspectors discretion to give warnings and advice, instead of imposing penalties as a means of enforcement? What is the procedure in practice that labour inspectors follow in such circumstances?***

A contravening person may also receive a warning in writing or orally about the social risk of the deed that was perpetrated, together with the recommendation to observe the legal provisions. The warning is issued when the deed is of low gravity.

***c) Are there any measures aimed at guaranteeing employers' and workers' right of defence and appeal? If an appeal process exists, how does it function? Please, specify if there are any other guarantee measures and their concrete functioning.***

The most important right that employers and employees enjoy is to complain against the record (procés verbal) on the implementation of the fine (see 3.a. above).

The court that is competent to examine and solve the complaint subpoenas the contravening person, be it employer or employee, who may bring forward any piece of evidence as provided by the law to its defense with a view to verify the legality and soundness of the record (procés verbal). The ruling of the court may be appealed within 15 days and no argumentations are needed. Until the appeal is solved, the implementation of the ruling is suspended.

4. Art. 10 of the ILO Convention no. 81/1947 reads that the number of labour inspectors needs to be sufficient in order to secure the efficient inspection service. This number is to be decided in keeping with the importance of the tasks that inspectors are supposed to carry out, with available material means and with the circumstances under which controls are to be performed.

***a) Please, provide figures, if available, on the number of labour inspectors that perform inspection duties in your country1***

The number of inspectors: in keeping with the Annual Report of the Labour Inspection Authority of 2009, there are 42 local Labour Inspection Offices in Romania, i.e. an office for each and every county and the Bucharest Municipality. The staff of the Labour Inspection Authority at national and local levels includes labour inspectors and social inspectors. In 2009 there were 72 labour inspectors and 35 social inspectors at the central level; at local levels, there were 1887 labour inspectors and 168 social inspectors; the average number of inspectors is 45 inspectors for each of the 42 local offices. Most of labour and social inspectors respectively are distributed on executive posts in: health and safety and work; labour relationship; social assistance and inclusion.

In keeping with Art. 11 para 6 of the Government Decision 1377/2009, labour inspectors fall in professional categories; the categories that are of utmost interest for Romania are: chemical works; mining; metal-processing work; erection and construction; energy; agricultural work; transportation a.s.o. Most of inspectors are located in the municipalities of Bucharest, Constantza and Sibiu.

By the end of 2009, statistical data on control activities show that most of control actions occurred in the field of labor relationship (i.e. 101,407).

***b) How are labour inspectors recruited and trained in your country? What educational qualifications are required from candidates to apply to a position as a Labour Inspector?***

Recruitment procedures: labour inspectors are recruited in keeping with the regulations that are relevant for civil servants. In keeping with Art. 11, para. 4 of the Government Decision no. 1377/2009, recruitment, training and appointing labour inspectors are done as stipulated by Law 188/1999 on the statute of civil servants. In keeping with Art. 50 of the said law, the conditions that a person needs to fulfill in order to perform a public service are:

- to have Romanian citizenship and master the Romanian language;
- to be at least 18 years old;
- to be appropriately qualified for the job;
- to be physically able to perform her/his duties;
- to have no record of crimes against humanity or the authority of the State, job-related legal offenses that have not been pardoned;
- to have not been fired from a previous public position;
- to have not been involved in political policing.

In order to be employed as a labour inspector, a competition is organized as by provisions of the Law no. 188/1999 with a view to testing professional knowledge and by fully observing the principle of equal access to the public service of all citizens that fulfill the demands of the law.

In addition to the general conditions as mentioned above, the labour inspector needs to be a graduate with university or long-term education programs for the fundamental fields where labor inspection is competent: engineering, agronomy, law, economics, sociology, psychology, public administration, medicine. After winning the competition, labour inspectors enter a testing period where professional practical skills are verified that are needed for carrying out the respective job; they are also getting familiar with the public administration system. At the end of the testing period, the person shall be appointed as labour inspector if all requirements are met; otherwise it is licensed.

***c) Do they enjoy of career guarantees and their pay and conditions of service are comparable to those that apply to comparable categories of civil servants in other ministries?***

Rights of stability and career development for labour inspectors are regulated by the Government Decision no. 1377/2009 and the Law no. 188/1999 as follows:

- labour inspectors enjoy stability and independence against any Government change and political influence;
- labour inspectors are protected against threats, violence and/or any other acts that would harm them or their family and property;
- labour inspectors are entitled to have opinions;
- labour inspectors have the right to be promoted in their professional career and levels of pay;
- labour inspectors enjoy the right of appropriately equipped offices, transportation means and reimbursement of travel and accommodation expenses when on duty;
- labour inspectors' right of professional training and development is guaranteed without any implication on pay rights;
- labour inspectors are assessed on an annual basis.

***5. a) What are the preventive and educational measures foreseen by your legislation?***

In keeping with the law, the Labour Inspection Authority:

- provides technical assistance to legal persons in setting forth programs that are dedicated to preventing professional risks and monitors their implementation;
- coordinates employees' training and awareness rising activity in the field of health and safety at work and monitors experts' training in this field;
- provides specialized assistance for a fee to requesting parties.

In keeping with Art. 8 of the same law, the Labour Inspection Authority cooperates with ministries and control bodies in other fields, with public and private organizations, with the representatives of the social partners and may resort to services provided by experts or specialized bodies.

***b) Are there any initiatives and programmes to raise awareness among workers and employers on the labour inspection related issues?***

No.

***c) Are workers and employers involved in any national body related to labour inspection? If so, please specify scope and subjects covered.***

No.

***d) To what extent are the workers or their representatives (trade unions, staff delegates, workers' committees) involved in the work of the labour inspectorate? For example, can they bring problems of compliance to the attention of the Labour Inspection? Can they accompany the labour inspector when the latter visits a workplace?***

Employees can contest reports (procés verbal) on contraventions and implementation of fines in front of courts; they can also notify situations when legal provisions are not observed to the local Labour Inspection offices.

***6. a) What are the relations between the labour inspectorate and the judiciary in your country?***

There are no connections between the Labour Inspection Authority and justice bodies. The only relationship between the two is that records (proces verbal) of official examiners can be contested in court.

***b) What are the pitfalls and potentials of such an inter-relationship?***

It does not apply

***c) How effective is this relationship?***

It does not apply.

***d) What would you recommend to render it more efficient?***

It does not apply.

**7. What are the main shortcomings of your national labour inspection system (i.e.: scope, human and material resources, function, organization, enforcement, machinery, sanction procedures?)**

Labour inspection is facing problems because of lack of personnel and the inappropriate training of the existing staff.

**8. What concrete actions could be implemented to make labour inspectorate more efficient?**

*De lege ferenda* the following steps are needed in order to improve effectiveness of labour legislation and inspection:

- awareness raising on the role of the Labour Inspection
- employing of more labour inspectors;
- organizing more professional training courses with a view to acquiring more advanced knowledge;
- setting up of participatory and cooperation ways between labour inspection officials and the social partners.

**9. Briefly describe if there are current reforms in the labour inspection system of your country. What are the main changes? How effective will be these changes? Any critical view on the system, in general, is welcomed.**

There are no reforms at present.