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► Regional Peer Review Report of the Labour Inspectorates of Albania, Bosnia and Herzegovina (entity Federation of BiH - Sarajevo Canton and entity Republika Srpska), Kosovo, Montenegro, North Macedonia and Serbia



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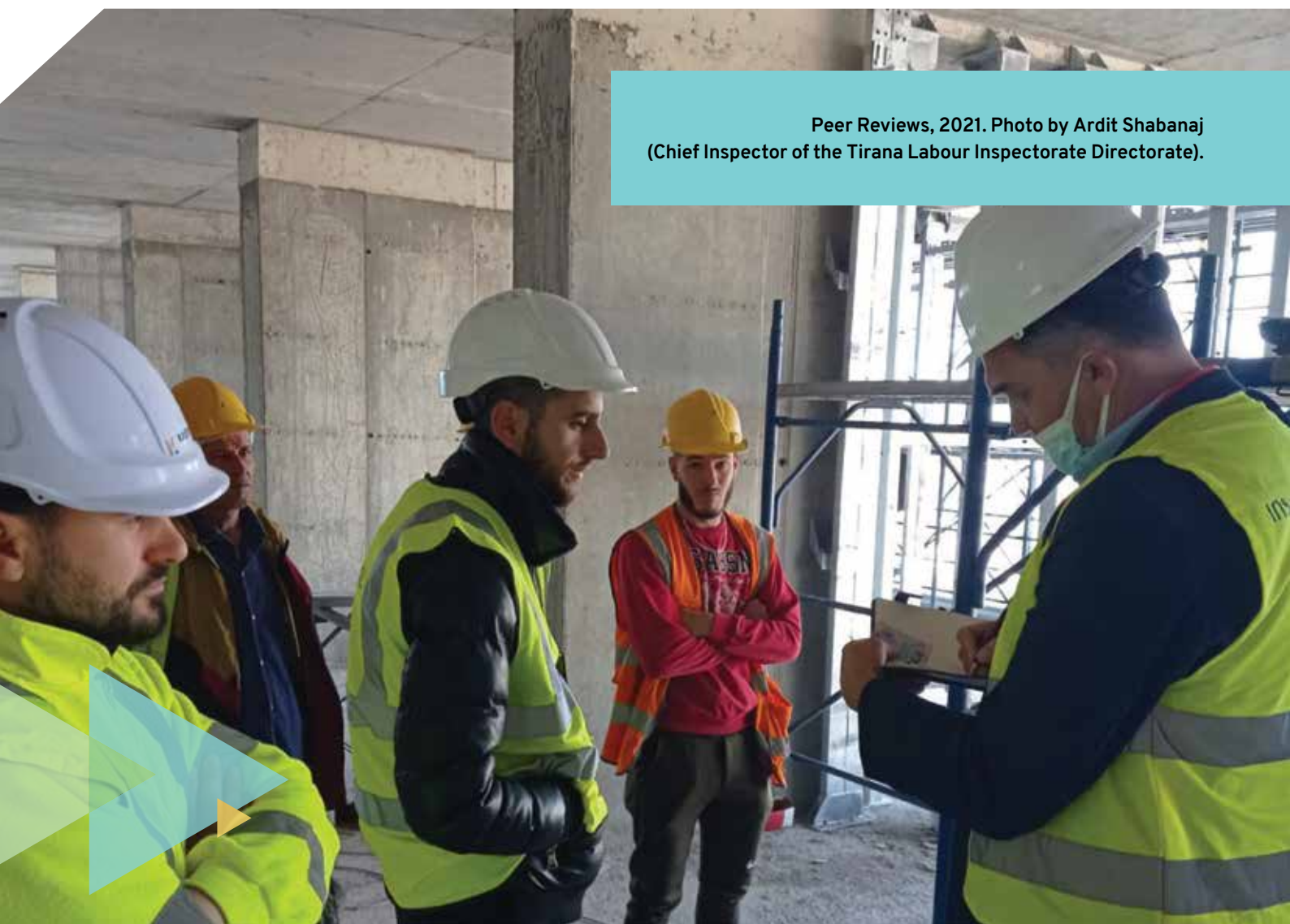


▶ Acronyms

ATEX	European Directives for controlling explosive atmospheres
BAM	Bosnian convertible mark
BiH	Bosnia and Herzegovina
CEACR	Committee of Experts on the Application of Conventions and Recommendations
ESAP	Employment and Social Affairs Platform
EU	European Union
FBiH	Federation of Bosnia and Herzegovina

ILO	International Labour Organization
IPA	Instrument of pre-accession assistance
MoU	Memorandum of Understanding
NES	National Employment Service
OIRA	Online interactive risk assessment
OSH	Occupational safety and health
PPE	Personal protective equipment
UN	United Nations

Peer Reviews, 2021. Photo by Ardit Shabanaj
(Chief Inspector of the Tirana Labour Inspectorate Directorate).



▶ 1. Executive summary

This is a descriptive report on labour inspection systems in the Western Balkans. It contains a comparative summary of the answers provided by the different labour inspectorates (hereinafter “inspectorate/s”) to an International Labour Organization (ILO) questionnaire, as well as the findings, recommendations and conclusions of seven peer reviews carried out by labour inspectors within the framework of the Employment and Social Affairs Platform (ESAP) 2 project funded by the European Union (EU). The report covers the inspectorates of Albania, Bosnia and Herzegovina: entity Federation of the BiH-Sarajevo Canton and entity Republika Srpska, Kosovo¹, Montenegro, North Macedonia and Serbia.

The detailed information and data on the different matters related to labour inspection have been largely drawn directly from the abovementioned answers to the ILO questionnaire. Moreover, this report, like the individual peer review reports on which it is based, is exclusively the result of desk review work, without direct interviews or work on the spot. Additional information may be included only in a partial and complementary way to complete some parts of the various completed questionnaires with insufficient information or where certain information was unavailable. It should be noted, however, that an online meeting with representatives of the inspectorates involved was held on 18 March 2022, aimed at completing the information provided in the ILO questionnaire with regard to inspections of undeclared work.

This report is an attempt to reflect the facts and challenges as seen and experienced by the inspectors, and to summarize, in a homogeneous and schematic way, the main issues and concerns of labour inspection in the Western Balkans. At the same time, it seeks to present a current general picture of the main strengths, weaknesses and challenges that the inspectorates face in this part of Europe and just as described by the parties involved. The report stresses the most urgent needs of labour inspection and what efforts should be made to address more actively and effectively the different shortcomings in labour relations, occupational safety and health, and the informal and grey economy.

Section 2 of the report is devoted to explaining the background and origins of the peer review, where it has been possible to collect information.

Section 3 is introductory. It contains general information on the legal framework, general functioning and institutional set up, coverage and cooperation channels of labour inspection. The information provided in this section exhibits many similarities regarding coverage, general competencies, and organization of the inspectorates. In relation to the legal framework (section 3.1), some recommendations point out the need for legal reforms, focusing on labour inspectors’ status and powers, enforcement rules or data management and cooperation.

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Legislative amendments are also suggested with a view to fostering social dialogue and collective agreements, avoiding overlapping between national and territorial legislation or providing enhanced protection to vulnerable workers. The section also includes a description of how they work, what measures labour inspectors may take and how they receive feedback and information to organize their action. Some inspectorates have the so-called e-inspector system, which is an integrated online information management and planning system with free access to electronic registers. Not all inspectorates may rely on a fully developed e-inspector system, however. The section also describes how these inspectorates can obtain information from the electronic registers of other public institutions, in particular data related to unregistered workers and undeclared work, and whether other sources of information (workers complaints, external reports and so on) are available.

Section 3.2 deals with the scope and coverage of labour inspection. The information contained in the ILO questionnaires and the individual peer review reports leave no doubt that the labour inspection systems of the Western Balkan economies are integrated, with competencies in different areas, in particular in occupational safety and health (OSH), labour relations and employment. Labour inspectors may occasionally undertake other tasks, in addition to those vested in them by the law, such as tasks related to public health to help mitigate the impact and spread of the Covid-19 virus. On the other hand, labour inspectorates do not have competencies in specific areas where inspection is assigned to other special bodies, such as fire departments, the armed forces, the police, or mining. This section also provides detailed information on the internal administrative organization of the inspectorates. Some are embedded in the competent ministry of the relevant labour branch, although others are part of a general Inspection Administration body, regardless of the information passed on to the line ministry. Some inspectorates work as an autonomous agency with their own budget and others are integrated into another public institution and share their budget. On the other hand, all inspectorates are organized at central and territorial level with local offices.

Finally, Section 3 also covers information regarding cooperation between labour inspectorates and other institutions and bodies. In most economies cooperation channels have been built up with specific bodies, among which the tax administration is the most important insofar it allows more effective inspection of undeclared work and unregistered workers. There is also significant cooperation between inspectorates and other inspection bodies, such as the technical inspectorates or inspection services in the areas of tourism, mines, the environment or health. Some inspectorates formalize cooperation by means of a Memorandum of Understanding, which means that feedback, exchanges of information and, where appropriate, joint inspection visits are envisaged in a written document.

Section 4 summarizes the information contained in the ILO questionnaires related to staff and number of labour inspectors. A table in this section shows some partial data, as available, on the number of inspectors compared with the number of entities subject to inspection and the number of workers. In general, the ratio of inspectors per 10,000 workers, used by ILOSTAT, is in line with many other EU countries, although there are some cases in which this number should be increased, as recommended by the review teams. On the other hand, all inspectorates have two or three groups of inspectors, depending on the area or scope of matters they inspect, namely OSH, labour relations or employment. The gender composition of inspectors is not uniform. In some inspectorates women are predominant while in others it is men.

Section 4 also includes information on staff organization, recruitment methods, the qualifications required for new labour inspectors and the organization of initial and ongoing training. This section contains information on non-staff resources, such as the number of offices, the situation as regards IT systems and computers, printers, vehicle fleets and so on, as well as information on inspectors' ethical standards and measures to ensure their impartiality and confidentiality, as well as the status of labour inspectors and their powers. It also discloses some information on how inspectorates work with social partners or on the extent to which they make use of guidance and manuals in their daily work.

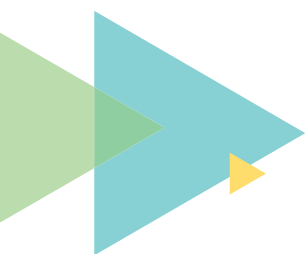
Section 4 shows how inspectorates plan their actions and how national and local priorities are set, taking into account policy requirements and objectives. Planning in general follows national strategies in the areas of labour relations or occupational safety and health. For some economies, the report describes how labour inspectorates use a risk assessment methodology, based on information and data management, when planning inspections. In some cases, planning for labour inspections is part of the general inspection plan of the inspection administration body or is undertaken by the line ministry.

This section also describes inspectorates' formal enforcement actions, such as imposing sanctions and prosecuting infringements with notices or actions, or reporting them to other bodies. It also refers to the main techniques for inspection and investigation used by labour inspectorates.

Section 6 provides information on specific inspection topics, such as the inspection activities to fight undeclared work, awareness-raising initiatives, or educational and promotional activities. It also includes relevant statistical data on accidents at work and occupational diseases and labour inspection work after an occupational accident.

How labour inspectorates tackle undeclared work is dealt with in depth, given the prominence of the informal economy in most Western Balkans economies. The report provides information on measures that labour inspectors may take when finding unregistered workers without social insurance and whether these measures are preventive, corrective or repressive, by way of penalties imposed on employers. It also provides a comparative view of how inspectorates plan their actions, how they work and cooperate with other competent public bodies or the coverage of inspections.

Finally, Section 7 provides information on the findings, recommendations and conclusions of the peer review teams. A schematic table has been included with all the teams' recommendations classified by subject and following the general structure of this report. The table encompasses the recommendations classified by issues and sticking as closely as possible to the language used by the peer review teams in order to reflect their thoughts as closely and accurately as possible. In general, these recommendations could be classified into different groups: legislative framework, institutional set up, labour inspection staff and recruitment methods, non-staff resources, planning and information and data management, working with social partners, occupational accidents and diseases, and inspection action to fight undeclared work.



▶ 2. Background of the origins of the audit

The Employment and Social Affairs Platform 2 (ESAP 2) is a project funded by the European Union (EU) and implemented by the International Labour Organization (ILO). The ESAP 2 works with labour market institutions in the Western Balkans to improve their effectiveness in addressing informal employment, and undeclared and underdeclared work.

The primary objective of ESAP 2's Labour Inspection Component is to increase the capacities and outreach of labour inspectorates to prevent and combat undeclared work. This goal will be achieved through improved regional exchange between labour inspection systems and practices. The ILO has supported the implementation of seven peer reviews of labour inspectorates in Albania, Bosnia and Herzegovina (entity Federation of BiH-Sarajevo Canton and entity Republika Srpska), Kosovo, Montenegro, North Macedonia and Serbia.

The ESAP 2 project also seeks to promote better knowledge and mutual understanding between various national labour inspection systems and practices, more adequate methods and legal frameworks for action, exchange of information and experiences, and the establishment of active cooperation with the labour inspectorates of in the region to help resolve eventual cross-border problems.

The peer review teams, consisting of inspectors from two labour inspectorates in the region, carried out assessments of each participating labour inspectorate. During the peer review visits, the host labour inspectorate organized meetings between the peer review team and different authorities. The team members had the opportunity to get acquainted and obtain information on the organization, operation and cooperation modalities of the host labour inspectorate. The peer review teams also accompanied inspectors in their regular inspection visits pertaining to labour relations, employment, and occupational safety and health. During the inspection visits, the teams were introduced to the inspectors' work modalities and working methodology.

The teams closely monitored the inspection's general approach, the inspection visit, information management and data, and inspectors' formal actions. After the inspections, meetings were held in labour inspectorate offices to present to and discuss the conclusions with the representatives of the host labour inspectorate.

In summary, the peer review teams have achieved good insights into the scope, procedures and methodology of work of the host labour inspectorates and discussed their findings and conclusions in the course of debriefings at the host offices.

▶ 3. Introduction

The labour inspectorates of the Western Balkan economies function within the framework of a full legal framework. Labour inspectors deal with the public in general and with employers and workers in particular, and clearly labour inspection must be performed in compliance with the law. Labour inspectors are empowered to visit enterprises without prior announcement, to issue notices and penalty charges, to initiate legal proceedings or even to stop the work of an enterprise in certain cases and under specific circumstances. All of this requires precise regulation of the competencies, powers and procedures by means of which such enforcement is implemented. Of course citizens' rights must be preserved at all times.

▶ 3.1 Legal and administrative framework, including which labour inspection and other relevant ILO conventions have been ratified

Labour inspection in the Western Balkans is, as in so many other inspectorates in the world, governed primarily by international standards, basically ILO Conventions No. 81 (Labour Inspection) and No. 129 (Labour Inspection in Agriculture). As far as international standards are concerned, all economies included in this report have ratified both the Labour Inspection Conventions and also the ten Fundamental Conventions and the four Governance Conventions. The inspectorates of the Western Balkans thus should comply with international standards in this area. The case of Kosovo should be noted, however. It is not a member of the UN, so it cannot be a member of any UN international organization, such as the International Labour Organization. Kosovo with this status has not ratified any international instrument (conventions and recommendations) of the ILO, although national legislation is guided by ILO international standards as a reference, according to information provided by Kosovo's labour inspectorate.

At national level, all inspectorates are subject to a special law on labour inspection and to various secondary or complementary regulations and bylaws. In all economies, the general legal provisions on civil servants also apply to labour inspectors insofar as they hold the status of civil servants. Additionally, other legal provisions on specific matters may indirectly or transversally touch on areas related to labour inspection, namely occupational safety and health legislation, labour codes, employment legislation, and so on.

In some economies, the activity of the labour inspectorate is regulated by a specific law on labour inspection, but also by a law on inspection (applied to the general Inspection Administration). This duality of legislation has cast doubts and, in some cases, the ILO Committee of Experts on the Application of Conventions and Recommendations (hereinafter CEACR) have called it into question, requesting information on the extent to which the Law on Inspection applies to the activities of the labour inspectorate, in particular where its provisions overlap and may conflict with those of the Law on Labour Inspection. The Committee also wishes to clearly identify any provisions of the Law on Inspection from which labour inspection is excluded (**Montenegro**).

The CEACR also requested information on the extent to which labour inspectors are bound by the principles established under other general inspection laws (for example, the request in 2018 to **North Macedonia** and in 2019 to Serbia in relation to the Law on Inspection Supervision), and on how overlapping or conflicting provisions are applied in practice to labour inspectors' daily work. In the same vein, the Committee requested information on the impact of these general laws on the enforcement of occupational health and safety legislation, on the prevention of industrial accidents and occupational disease, and on the outcomes of joint inspections.

According to the information provided in the ILO questionnaires, the findings, recommendations and conclusions of the peer review teams or any other information taken into account in this report, the legal framework of the Western Balkans inspectorates is sufficient and covers all aspects related to labour inspection. However, some recommendations suggested adopting further regulations or amendments on specific matters, such as introducing experience grades for labour inspectors (**Albania**), or avoiding overlapping of different territorial legislation levels (**Sarajevo Canton**), strengthening labour inspector 'status, rights and duties (**Kosovo, Albania**), providing health insurance protection to inspectors (Kosovo), fostering social dialogue and collective agreements (Albania, BiH: entity Republika Srpska, Kosovo) or reinforcing protection to vulnerable workers, such as pregnant women (Albania). The peer review teams have also recommended rationalizing and systematizing legal provisions applied by labour inspectors (North Macedonia).

3.2 Coverage and scope of labour inspection systems

Labour inspectorates in the Western Balkans are, in general, integrated inspection systems (or generalist in more informal terms), for they hold competencies in three different social branches: OSH, labour relations and employment, and undeclared work. In fact, most inspectorates have the authority to address undeclared work issues with regard to employers who do not register workers with the social security system. Likewise, the supervision of employment contract terms, the indefinite or fixed-term nature of the employment contract, wages, working hours or leave are also issues under inspectorate supervision. This confirms the integrated labour inspection approach of the Western Balkans inspectorates. This is why a fair number of inspectorates are organized in two inspection divisions (OSH and labour relations), and why new inspectors' possible qualifications are not confined to law or social sciences, but also encompass technical sciences or engineering. This requires a non-stop process of specialization for labour inspectors to enable them to better tackle the different matters subject to inspection, while also retaining professionals with a broader vision as a valuable asset.

National law in some cases makes its way into private international law and regulates labour inspectorate competences in relation to foreign employers and workers posted abroad. In Montenegro, for instance, foreign employers with workers or workplaces in the host country, foreign nationals hired by national employers or workers posted abroad by national employers are also subject to national law (provided that the foreign host economy legislation offers less favourable OSH protection than laid down in national law) and, consequently, to national labour inspection unless otherwise stipulated in a special law.

Exceptionally, labour inspectors may be entrusted with competencies in other areas, such as public health in the context of the difficult situation caused by the COVID-19 pandemic (for example, Montenegro and Serbia). On the other hand, labour inspectors may supervise not only national legislation, but also collective agreements (North Macedonia, among others), which is in line with considering them as law enforcement.

As regards entities subject to inspection, labour inspection in the Western Balkans in general covers both private and public entities. Most economies, however, have exceptions for the armed forces, the police, firemen, search and rescue services, and workplaces exposed to ionizing radiation and other specific activities. They have their own special regulations and their own inspection services, or labour inspection of them is conditioned or limited by special legislative provisions. Apart from conventional inspection duties, labour inspectors also carry out other tasks, such as training, management of files when staff resources are scarce or participation in working groups and committees.

Most inspectorates make use of the information provided by their national statistical offices to determine the entities or employers to be covered by inspection. The entities subject to inspection are usually classified into public and private entities or into large, medium and small size, or by sectors and by number of entrepreneurs or self-employed persons. This makes it possible to get a picture of the magnitude of the economic activity and the number and type of enterprises, workers and entrepreneurs that are under the coverage of labour inspection can be framed.

By activity, the sectors most inspected are general construction, accommodation and food services, retail, and other services (as drawn from the answers to the ILO questionnaires).

3.3 General functioning and internal organization of labour inspection

In all cases, the functioning and internal regulation of labour inspection is covered by formal laws and bylaws. An organogram of the national labour inspectorate and its general operational rules are included in the individual peer review reports.

3.3.1 Functioning of labour inspection

The tasks and duties of the inspectorates in the Western Balkans, as elsewhere in the European Union, are the supervision and enforcement of labour, employment and OSH legislation. The main task of labour inspectors is to inspect workplaces and take legal or administrative measures where breaches are found, such as a warning or advice in improvement notices, administrative financial penalties or motions to initiate administrative misdemeanour or criminal proceedings. Inspectorates may also submit initiatives to amend legislation, propose policy measures or report on matters in their competence.

In order to fulfil their missions, inspectorates rely on data sources that are either internal or provided either by the line ministry or by other central registers of enterprises and workers (Serbia, Albania, BiH: entity Republika Srpska, among others). In this respect, all companies and employers registered are subject to inspection, but also those who are not registered and work in the informal economy. In some economies, labour inspectors have access to the Register of the Tax Administration (Albania, BiH: entity Republika Srpska), although it is not clear whether this access is free or only on request or through professional contacts. The peer review teams have in some cases recommended that a given labour inspectorate set up real-time access to tax administration or other authority registers (BiH: entity Federation of BiH-Sarajevo Canton, Montenegro at territorial level). All labour inspectors should have free and real-time access to those electronic databases, as they provide relevant information about units subject to inspection and identification details. This is key in planning inspection action and building inspection strategies.

As already mentioned, some inspectorates identify the enterprises to be inspected by processing and analysing data and information obtained from various sources, including its own. For instance, the Inspectorate Information System (IRIS) in Montenegro and the Inspection Management System (IMS) in BiH: entity Republika Srpska not only keep track of inspections and violations, but also deal with requests for inspections submitted by citizens or workers through different channels, such as post, e-mail, call centers or web portals (for example, Montenegro of eGovernment portal “Be Responsible”).

In other cases, inspectorates draw information from anonymous complaints and other known sources, such as web mailboxes, media and social networks, as well as data exchange with other state bodies and institutions. Information is also collected from workers’ written complaints or employers’ business notifications. Additionally, information is picked up from the internet and from past inspection records or registration forms submitted to the inspectorate. The inspectorates analyse all this information and store it electronically, allowing them to plan regular or preventive inspections or carry out reactive inspections, where appropriate.

Not all labour inspectorates have a full electronic information and management system, and some data are still stored in a paper-based system (Kosovo, partially in North Macedonia), if the necessary software has not yet been developed or is in the course of being installed (North Macedonia). Some inspectorates rely on online information provided by an electronic inspection system (for example, e-INSPEKTIMI in Albania). In Serbia an e-inspector system assists inspectors with full and digitalized data, so the information at their disposal is manifold and stems from various sources. This can be very useful if the data from different sources is gathered in a centralized database.

Inspectors’ access to databases and electronic registers through the e-inspector system is therefore an efficient tool for planning and implementing inspections and may serve as a hub of information from which inspectors can obtain the full names of entities and business people, the addresses of their head offices and registered branches, business registration or taxpayer numbers, the codes of the economic activities of their various entities, the identity of responsible persons, and information on ongoing bankruptcy procedures. Moreover, access to other registries’ data, such as social insurance and tax administration, is of paramount importance, helping inspectors to fight against undeclared work more effectively.

In general, the peer review teams have made recommendations to some inspectorates to upgrade and improve their information management systems and access to databases hosted by other public bodies, enabling inspectors to cross check data with other institutions (as explained in Section 7 of this report).

► 3.3.2 National and territorial organizations

Regarding the internal organization of inspectorates within the public administration, a number of inspectorates in the Western Balkans are integrated into the Ministry of Labour (Serbia, Kosovo) or other ministries, such as the Ministry of Finance and Economy (Albania). As a result, the labour inspectorate budget is a part of the ministry's budget. In North Macedonia, the labour inspectorate is an autonomous legal entity with its own budget. Elsewhere, labour inspectorates are embedded in a general inspection administration (Montenegro, Bosnia and Herzegovina: entity Federation of BiH-Sarajevo Canton and entity Republika Srpska).

Labour inspectorates in Western Balkans economies are all headed by a director, assisted by deputy directors, and have various sectors or departments comprising various services, such as human resources, IT systems, budget and accounting, statistics, analysis and risk assessment. Some also include specialized departments for occupational safety and health and labour relations. All of them function at central and regional level, with headquarters providing coordination and technical assistance to local and regional offices. The role of the director is to manage, organize and plan inspection activities and to coordinate cooperation with other bodies and institutions. In some economies, an Inspection Council coordinates labour inspections (North Macedonia).

As already explained, in several economies (Montenegro, BiH: entity Federation of BiH-Sarajevo Canton, entity Republika Srpska) the labour inspectorate is part of a general administration or directorate for inspection, which functions as a separate administration and comprises different inspection services, covering markets, the environment, economic activities, mining, energy and electricity, forestry, health, and agriculture. At the same time, this general Inspection Directorate is assisted by shared common service departments (human resources, legal matters, planning, database and IT infrastructure and systems, financing, internal audit, and so on). This inspection administration reports directly to the government and provides it with annual reports, in addition to the reports and annual plans that the various sectoral inspection bodies submit to their line ministries.

It should be noted that the ILO CEACR issued a general observation on labour inspection (Observation 2019/901²), in which it refers to the weakening of the role and coherence of central authority by decentralization and distribution of labour inspection services and functions among different authorities (which would raise concerns regarding conformity with Article 4 of Convention No. 81 and Article 7 of Convention No. 129).

² See https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_736204.pdf - General Observation on C81 and C129 published with the CEACR's report (pp. 461 and 462).

The Committee recalled the possibility of excluding labour inspectorates from broader state inspection reforms, recognizing the importance of labour inspection systems for effective governance and their role in addressing imperfections in labour market imbalances. In fact, this type of organization – integrating labour inspection into a broader general inspection administration – is not common in EU countries.

In summary, there would be no objection to this type of organization, embedding labour inspection in a more general inspection administration, but the governance of labour inspection by these standards would be acceptable only insofar as the provisions of ILO Conventions are safeguarded. Furthermore, provided that the central authority is properly identified in terms of Article 4 of ILO Convention No. 81, this organization could harness synergies and enable a fluid exchange and sharing of information among the different sectoral inspection departments. This may be fruitful in certain areas of labour inspection, such as occupational safety and health prevention or the fight against undeclared work.

Finally, all labour inspectorates rely on a territorial organization, with local offices in the different regions with a staff size proportionate to the number of entities and active workers subject to inspection. However, a process of centralization is being implemented in Republika Srpska in BiH, entity Republika Srpska, integrating local inspectors into central offices. This is intended to ease work planning and prevent excessively frequent visits to the same entities.

3.4 Cooperation with other bodies

The labour inspectorates in the Western Balkans cooperate as a general rule with other public administrative and judicial authorities, including the public prosecutors' offices. This cooperation takes place at both national and local levels on all matters falling within the scope of labour inspection. The cooperation involves exchanging information, sharing data and in certain cases carrying out joint inspections. Sometimes the law stipulates specific deadlines for providing the information requested (for example, 15 days in Serbia for all public institutions).

Cooperation between inspectorates and other bodies contributes to more comprehensive and coordinated inspection planning, avoiding overlaps and duplication and enabling more consistent enforcement of legislation and more efficient risk assessment and work environment management as a whole. Although inspectorates are mainly occupied with the supervision of working conditions, labour law, employment and occupational safety and health, other sectoral inspectorates investigate other areas such as tourism, taxes, social security, markets and forestry, particularly in the area of occupational safety and health in mining and quarries. Cooperation between inspectorates and other inspection services is stronger in the case of so-called technical inspectorates, such as, in Albania, the State Technical and Industrial Inspectorate, which inspects the technical standards of electrical appliances, petrol, gas, and pressurized containers.

Box 1 – Snapshot

In BiH, entity Republika Srpska the Forestry Inspectorate, the Construction Inspectorate, the Firefighting Inspectorate and the Agriculture Inspectorate inspect health and safety conditions at workplaces. Inspections in the health-care sector are carried out by the Health Inspectorate and its specialist health inspectors, including pharmaceutical inspectors and inspectors for non-ionizing radiation, chemicals and biocides, protection against epidemics or social protection.

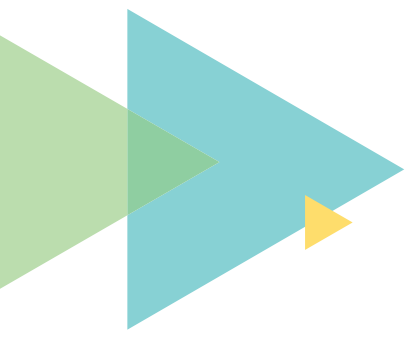
All these specialized inspectorates cooperate with the line ministries and other bodies with competence in similar matters. It is important to underline that coordination between these inspectorates can be conducted by the head of the inspection administration, who has oversight over all inspectorates and inspection divisions.

In some economies, cooperation is articulated and regulated by law (for example, special audits carried out in coordination of the Tax Administration, the Inspection Administration, and the Games of Chance Administration in BiH, entity Republika Srpska).

Most inspectorates also set up regular cooperation channels with the ministry of the interior, the police and the tax administration. This cooperation may involve joint inspections and is of the utmost importance to combat undeclared work effectively. Furthermore, joint inspections with the police are safer and prevent violence against or obstruction of inspectors. For instance, in BiH, there is regular cooperation between the BiH: entity Federation of BiH-Sarajevo Canton Labour Inspectorate and the Ministry of the Interior, or the trade and tourism inspectors.

In most regional economies labour inspectors also pave the way for new forms of cooperation when they participate in committees, working groups and commissions established by the government, including activities or groups of the social partners, tripartite committees, public hearings, consultations, campaigns and debates on different labour or occupational safety and health issues.

This cooperation is sometimes institutionalized by means of a permanent group or a committee integrating the different public bodies involved and focusing on a specific issue.



Box 2 – Snapshot

In Serbia a Committee for Inspection within the Coordination Commission (appointed by the Government) has established 11 working groups, one of which is the Working Group for Combating Informal (Undeclared) Work, led by the labour inspectorate. The labour inspectorate provides regular monthly reports to the Coordination Commission on the activities of the Working Group. The Working Group organizes coordinated inspections in different industries jointly with other inspectorates, exchanging information and otherwise cooperating with them. Together, they have achieved substantial results in tackling undeclared work and the so-called shadow economy.

The Working Group is chaired by the Director of the Labour Inspectorate and is composed of representatives from the Labour Inspectorate, the Tax Administration (Audit Sector), the Ministry of Trade, the Market Inspectorate and Tourism Inspectorate, the Sports Inspectorate, the National Construction inspectorate and the National Road Transport Inspectorate. The group is supported by the Coordination Commission Support Unit, the Ministry of the Interior and the National Alliance for Local Economic Development (NALED).

Labour and other inspectorates and bodies participating in the Working Group perform joint inspections and the Working Group prepares annual work programmes and implements them through semi-annual, quarterly and, when necessary, monthly action plans.

Cooperation in some other cases takes place by means of a Memorandum of Understanding (MoU) signed by the relevant parties. The Albanian State Labour Inspectorate and Social Services has a MoU with the General Tax Administration for sharing data. In North Macedonia an MoU has been signed with the Employment Service Agency and another with the Public Revenue Office. Furthermore, the Central Registry is currently at its final stage of agreement, approval and signature. In Kosovo, several MoUs are being drafted and are expected to be signed soon. In practice, however, depending on the nature of the inspection, joint inspections and coordinated actions may be agreed. In Montenegro, the labour inspectorate has signed an MoU with the social partners (for example, the Union of Employers of Montenegro and the Association of Trade Unions and the Association of Free Trade Unions of Montenegro). This sets out rules for the exchange of information and matters of common interest, and at the same time provides a good opportunity to strengthen social dialogue. However, in BiH, the labour inspectorate of the entity Republika Srpska has not signed yet any MoUs.

New opportunities for cooperation have opened up since the Covid-19 pandemic. Labour inspectorates participated in joint working groups set up to prevent the spread of the virus in a coordinated effort by different public services and institutions. In these cases, the inspectorates were involved in inspecting anti-pandemic health measures at workplaces, reporting to the competent health authorities (for example, the Working Group for Coordination of Preventive Covid-19 Inspection Actions in Serbia).

Cooperation between inspectorates regarding undeclared work is particularly important and happens more frequently than on other issues. The inspectorates usually cooperate with the tax administration and social security administrative branches, especially in economies in which these administrations have the authority to inspect undeclared work and for collecting social security contributions. Joint visits between labour inspectors and tax inspectors to supervise undeclared work are organized, for example, in Kosovo. In Albania, the social security institution handles workers' benefits after accidents at work, involving investigations and decisions by labour inspectors.

Likewise, joint inspections between labour inspectorates and the ministry of the interior or the police may be important not only for locating the workplaces to be inspected, but also for accompanying inspectors into high-risk workplaces (for example, some agriculture plantations, tourism hot-spots, and so on) where resistance or hindrance may be expected.



Peer reviews, 2021.

Photo - Employment and Social Affairs Platform 2 (ESAP 2)

▶ 4. Staff and resources

The required number of inspectors is, in most cases and in theory, determined by the number of enterprises, entrepreneurs and workers subject to inspection. The organization of staff resources and distribution of local offices are based on the size and geographical distribution of enterprises. In some economies, the current number of inspectors is deemed insufficient to cover all legal entities subject to inspection and to ensure an adequate and frequent presence to properly supervise legislative compliance. Following the answers to the ILO questionnaire and/or the recommendations made by the peer review teams, at least in four economies (Albania, Bosnia and Herzegovina- Sarajevo Canton, Kosovo, and North Macedonia) the number of inspectors is insufficient to properly cover all entities and workers subject to inspection. In certain cases the CEACR, too, has mentioned the lack of labour inspectors in some of its observations, direct requests or comments (as detailed in the individual peer review reports).

The lack of newly recruited inspectors, their average (older) age, retirements and lack of funds in general have all contributed to a staff drain and shortage of inspectors in some of Western Balkans economies. Equally, in the area of occupational safety and health, there are not enough technical experts and specialists in different technical fields, such as architecture and construction, electronics, energy, industrial engineering and machinery (North Macedonia). To curb this trend, recent annual employment plans have accelerated the recruitment of new inspectors (North Macedonia).

In some economies (Montenegro), the number of inspectors is laid down by regulations on the internal organization and systematization of the general Inspection Administration, but many of the approved positions are still vacant. In some other economies (Serbia), the number of inspectors required is established by a general Government Plan, regardless of the specific positions defined by the internal organization and systematization regulations adopted by the competent ministry. Table 1 presents the number of inspectors in each Western Balkans economy in relation to the number of entities subject to inspection and workers:



► Table 1 Number of inspectors in Western Balkans economies

Economy	No. of entities	No. of workers	Staff/inspectors	Enterprises/inspector	Inspectors/10,000 workers
BIH - R. SRPSKA¹	25,815	272,366	63/32	806.7	1.17
SERBIA	376,382 ⁷	2,667,000 ⁵	218/261 ⁶	1,568	0.81/0.97
MONTENEGRO²	35,870	139,482	43	834.1	3.09
KOSOVO	33,275	375,889	57/39	853	1.04
BiH - SARAJEVO CANTON	–	143,366	12	–	0.83
NORTH MACEDONIA³	75,914	811,106 ⁹	118 ⁸	643	1.45
ALBANIA⁴	162,342	1,423,849	146/117	1,309.2	0.82

Notes:¹ Employee data for 2019, enterprise data for 2018, current number of inspectors.² Data for 2019–2020.³ Data for 2019.⁴ Data for 2020 and current number of inspectors.⁵ Data for 2018; Quality report of the European Union Labour Force Survey 2018, 2020 edition.³⁶ 218 includes 13 new recruits; 261 includes ongoing advertisements for new recruits; data from the Council of Europe Office in Belgrade suggests there are 240 inspectors; News: Serbian labour inspectors learned about human trafficking for labour exploitation; Serbia, 23 November, 2020.⁴⁷ Data for 2018, OECD Library.⁵⁸ Data for 2017 from EUROFOUND; Living and working in North Macedonia, 3 June 2018.⁶⁹ Q3 2020.

The data presented in Table 1 are either incomplete or not homogeneous. They are drawn from different sources and periods. But they do provide a rough snapshot of the situation regarding the ratio between enterprises and inspectors and that of inspectors per 10,000 workers. According to these data, Albania, BiH: entity Federation of BiH-Sarajevo Canton and Serbia have among the lowest ratios in the region. Based on data provided by the reviewed inspectorates in the Western Balkans and ILOSTAT,⁷ the inspectorates in BiH-entity Republika Srpska, Kosovo, Montenegro and North Macedonia have more than one inspector per 10,000 workers, which is generally comparable with other EU labour inspectorates. The ILOSTAT data contain information only on North Macedonia and Montenegro, with, respectively, 1.7 (2018) and 1.9 (2020) inspectors per 10,000 workers. This is fairly good. Finally, the scenario may change as a result of seasonal activity, when a larger number of workers work in certain activities.

3 <https://ec.europa.eu/eurostat/documents/7870049/10381077/KS-FT-20-001-EN-N.pdf/9945a36a-4166-eae6-47a6-7153346915de>

4 <https://www.coe.int/en/web/belgrade/-/serbian-labour-inspectors-learned-on-human-trafficking-for-labour-exploitation>

5 <https://www.oecd-ilibrary.org/sites/54da3754-en/index.html?itemId=/content/component/54da3754-en>

6 <https://www.eurofound.europa.eu/country/north-macedonia>

7 https://www.ilo.org/shinyapps/bulkexplorer13/?lang=en&segment=indicator&id=LAI_INDE_NOC_RT_A

In regard to the gender composition of labour inspectorates in the Western Balkans, the data provided by the ILO questionnaires reflect an uneven situation. While the labour inspectorate of BiH: entity Republika Srpska has slightly more female inspection employees (35) than male (29), in Montenegro, 30 active inspectors are women and only 13 men. By contrast, Kosovo has 39 field inspectors, 32 of whom are male and seven female. Finally, according to ILOSTAT data from 2018, in North Macedonia 50 inspectors were male and 79 female.⁸

In most Western Balkan economies, labour inspectors are divided into two groups: one deals with working conditions and employment (labour relations) and the other deals with occupational safety and health. This is indicative of an integrated inspection approach, but also of a degree of specialization. However, there are economies, such as Kosovo, in which labour inspectors monitor both areas, although there are plans to separate inspectors into labour relations and occupational safety and health. This is a labour inspection scheme that appears in many Central and Eastern Europe countries and has the advantage of covering work relationships in their entirety, while keeping tailored inspection for each area.

4.1 Recruitment and qualifications of new inspectors

In most of the Western Balkan economies, labour inspection is a profession that requires a specific level of education and relevant professional experience. A newly recruited labour inspector needs to pass a professional exam to work in the civil service, but also a professional exam as an inspector, and must also meet other criteria to work in the public service.

The recruitment of labour inspectors generally follows the same procedure as for civil servants. This is regulated by law, which provides for selection, appointments and appeals procedures. Recruitment is usually initiated once the relevant positions and funding have been approved, positions are vacant and filling the jobs is part of staff organizational planning. While general administrative legislation on civil servants regulates the procedure for filling vacancies, special labour inspection legislation defines categories of inspectors and the requirements that candidates must meet.

Vacancies are often published and may be external or internal. In some cases, however, employment is fixed-term. For instance, in Montenegro, labour inspectors are appointed by the head of the civil service/Director of Inspection Administration for a renewable term of five years. This is not in line with Article 6 of ILO Convention No. 81, which provides for stability of employment.

The recruitment process is sometimes directly managed by a ministry, otherwise by a competent public agency (such as the Civil Service Agency in BiH: entity Republika Srpska or the Federal Civil Service Agency in BiH: Sarajevo Canton). In other economies, the labour inspectorate recruits and selects its own staff independently (North Macedonia).

⁸ https://www.ilo.org/shinyapps/bulkexplorer44/?lang=en&segment=indicator&id=LAI_INSP_SEX_NB_A

Recruited inspectors must comply with certain eligibility criteria. The first and most important is a higher education; inspectors must have completed the first cycle of studies and have at least 240 European Credit Transfer System credits (BiH: entity Republika Srpska and Sarajevo Canton, Serbia, North Macedonia) either in social sciences, especially law, or in hard sciences, economics, occupational safety and health, engineering, architecture, medicine or other general or specialized university courses (lasting four years). In Albania, a labour inspector must have a Master's degree in a profession or a Master of Science, earned on the completion of second-cycle studies with 120 credits and with a normal duration of two academic years, or equivalent to this in accordance with higher education legislation.

As already mentioned, new inspectors are generally required to pass a professional exam to work in the civil service (in all economies). In Bosnia and Herzegovina: entity Federation of BiH-Canton Sarajevo and entity Republika Srpska) inspectors are also supposed to hold a category B driving license. Sometimes a second specific exam is required to work as a labour inspector and a minimum of several years' experience after the completion of the required education (namely, three years for the position of advisor or five years for the position of independent advisor in Serbia; three years in BiH: entity Federation of BiH-Sarajevo Canton; and one to three years in Montenegro, depending on the type of inspector).

Snapshot Box 3

In North Macedonia, inspectors' positions are classified as B and C category, as regulated in the Law on Civil Servants. Each category contains different levels that are described with a title, in line with the Law on Inspection Supervision, as follows:

- B1 – executive inspector
- B2 – chief inspector
- B3 – assistant chief inspector
- B4 – senior inspector
- C1 – inspector advisor
- C2 – independent inspector
- C3 – assistant inspector
- C4 – junior inspector

In Montenegro, the Law on Civil Servants classifies a labour inspector in accordance with their position. For instance, the Chief Labour Inspector and Inspectors-Coordination are classified as Expert Managerial Personnel, who must have at least a VII1 level education and a minimum four years' work experience. Inspectors are classified as Expert Personnel and must have at least VII1 level education and different levels of work experience depending on the category of inspector (three years for Inspector I, two years for Inspector II and one year for Inspector III). The procedure for recruiting Expert Personnel requires an open vacancy.

The exams and interviews for selecting candidates test their knowledge, abilities, competences and skills and result in a short-list of the best performers. It is up to the corresponding head of the relevant public service (either the Director of the Labour Inspectorate or the Director of the Inspection Administration) to select candidates as entry-level civil servants. In some cases, an interview panel selects the candidates with the participation of labour inspectors. The decision may be appealed (BiH: entity Republika Srpska).

In general, once new inspectors are recruited, they must undergo a probationary period (for example, one year in Montenegro). In BiH: entity Federation of BiH-Sarajevo Canton a six-month probationary period for new inspectors applies to all levels of employees of the Public Administration (six months are also required in Serbia).

Labour inspector vacancies may be filled not only by newly recruited inspectors, but through other internal procedures, such as promotion of an inspector to a higher position or transfer of an inspector to another position of the same category and level. According to the information included in the ILO questionnaires, the recruitment process is in general transparent, fair and competitive.

4.2 Competence and training (initial and mid-career)

General competence requirements for labour inspectors in the Western Balkan economies are, in most cases, provided for in both the civil servant legislation and in special legislation. For instance, in Serbia, inspectors are appointed under special legislation to conduct inspections and to take administrative measures as part of their work and, consequently, are required to meet the capacity requirements of a senior advisor, independent advisor or advisor, as defined in the applicable law.

In Albania, inspectors are required not only to prove their knowledge of legislation and social policies relevant to labour inspection, but also skills in integrating information within institutional policies and capacity for providing alternative opinions based on professional experience, for embracing new methods and procedures or for developing communication and presentation skills. In the same vein, in other economies, such as North Macedonia, the labour inspectorate requires inspectors to prove core skills and competencies predetermined at different levels, in accordance with a General Work Competencies Framework. Thus, at mid or advanced level, labour inspectors must have skills in communication and teamwork, a proven track record, and a client/stakeholder orientation. For other special work competencies, knowledge of foreign languages, financial management or computer literacy are required.

Training of labour inspectors is usually carried out in two ways: initial training and permanent training based on lifelong learning. According to the ILO questionnaires, there are no specific colleges for labour inspectors in any of the Western Balkan economies, and labour inspectors attend training either on a one-off basis or through the civil servants training centers or academies, which develop general or specialized training programmes.

Some economies adopt an annual training plan, as provided for in the law, for the training and professional development of all inspectors.

Snapshot Box 4

In North Macedonia, the Director of the State Labour Inspectorate has adopted a ***Programme for practical work and on-the-job training with mentorship to acquire an inspector's license***. The training programme for newly employed inspectors consists of two parts: labour relations and occupational safety and health. The general part (1 month) includes matters related to the State Labour Inspectorate and its legislation, such as the organization and authority of the Inspectorate (sectors and departments) and the rights and obligations stemming from employment as a labour inspector. The specific part (8 months) is devoted to substantive laws that guide state inspectors in their work, the methodology of conducting inspections and implementation. The main goal is to develop the basic competences and skills of new inspectors.

The Annual Training Programme provides inspectors with new and up-to-date knowledge and skills which are vital to their work. It is organized in two main areas: legislation and capacity building. The objective is to strengthen their capacities in the enforcement of legal regulations. The training sessions are also organized through an online platform both for groups of up to 50 inspectors and for individual learning.

Labour inspectors are not always required to have completed training in key areas (such as occupational safety and health or labour relations) or in specific labour inspection institutions. Frequently, the training for certain topics is carried out by a general public administration institution (for example, in Kosovo the Institute for Public Administration, IKAP, or in Albania the School of Public Administration, ASPA). Some economies (Albania, BiH: entity Federation of BiH-Sarajevo Canton) do not have a set training programme for labour inspectors, although new inspectors are always assisted by experienced inspectors from the General Directorate with all types of issues.

Other inspectorates have harnessed the training provided by EU sponsored projects, as is the case in Serbia, where the Twinning project "Support and improvement of occupational safety and health and labour inspection in the Republic of Serbia", funded by the EU under IPA 2014 (Instrument of Pre-Accession Assistance) and implemented over the period February 2019–June 2021, provided a train-the-trainer programme. This covered subjects such as communication and training skills, working conditions, labour relations, undeclared work, trafficking in human beings and OSH, risk assessment using OIRA,¹⁰ PPE, safety at construction sites, asbestos risks, signalling in workplaces,

10 Online Interactive Risk Assessment; see at <https://oiraproject.eu/es>

ATEX,¹¹ carcinogens, mutagens or biological hazards, safety and health in agriculture, manual lifting of heavy loads, noise and vibration-related risks, stress, work harassment. In 2019–2020, Serbian labour inspectors attended train-the-trainer workshops and then passed on their knowledge and training to other inspectors in the pilot classroom which could be the germ of a future Center for Continuous Professional Development and Lifelong Learning for labour inspectors. In Kosovo, some training for labour inspectors has also been conducted in recent years through projects funded by the European Union (EU).

Finally, it should be noted that the peer review teams for Serbia (Albania and BiH: entity Republika Srpska) stated in their recommendations that, taking into account that the issues addressed by labour inspectors directly affect the quality of the labour market both within the country, but also in the Western Balkans region, it would be worth considering establishing a lifelong learning training center at the regional level for labour inspectors in the Western Balkans. This would provide an excellent opportunity to exchange information and best practices on labour inspection and to work towards a more consistent and uniform labour inspection system across the Western Balkans region.

4.3 Standards of ethical behaviour and measures to ensure inspectors' impartiality and confidentiality

The rules concerning labour inspectors' ethical behaviour, as well as impartiality and confidentiality, are in general contained in civil servant legislation (BiH: entity Republika Srpska, Serbia) in the form of a code of conduct for civil servants. But there are also specific legal provisions on inspectors of the general Inspection Administration or labour inspectors (Montenegro, BiH: entity Republika Srpska). For instance, in BiH: entity Republika Srpska the Code of Ethics for Inspectors of the Inspection Administration is a specialized code of conduct for civil servants vested with special powers. This Code provides for specific standards of behaviour for inspectors, based on fairness and honesty, and enshrines principles such as treating all entities inspected equally, without nepotism and/or favouritism, prohibition of preconceived notions that all entities inspected are non-compliant, making rational use of available resources or not accepting gifts, favours, promises or privileges. It also includes standards of personal behaviour (confidentiality, proper use of information, avoiding conflicts of interest, respect for colleagues, personal hygiene, dress code, alcohol abuse).

In Serbia, the Law on Inspections forbids inspectors to carry out economic activities or other services for their own benefit or on account of another employer in the sector in which they perform inspections, or to participate in the activities of expert working groups or bodies of the entities inspected or subject to inspection. The Law also prohibits inspectors from providing other services or performing other tasks, duties and procedures that are incompatible with their position and role as inspectors or that may compromise their professional independence. Furthermore, Serbia has adopted a Code of Conduct and Ethics for Inspectors (approved in 18 September 2018 by the Committee for Inspection Coordination).

¹¹ ATEX is the name commonly given to the two European Directives for controlling explosive atmospheres

Snapshot Box 5

In BiH: entity Federation of BiH-Sarajevo Canton, the Law on Inspections prohibits the inspectors from engaging in trade, economic or other activities for another employer or as a form of self-employment in the sector or in the area falling within their competence. They are not allowed to participate in the work of the technical committees or administrative bodies that issue permissions, opinions or other documents required for licencing entities subject to inspection, or to develop projects, studies or analyses for businesses, unless they pertain to scientific research work or to professional education and development. The Law also stipulates that the inspectors must treat as confidential all the information they become acquainted with while performing their official tasks and duties. Besides the above specific provisions, labour inspectors are also subject to the Code of Ethics for Civil Servants of the Federation of Bosnia and Herzegovina.

In North Macedonia, besides the provisions contained both in general administrative laws and in specific labour inspection regulations, the State Labour Inspectorate is drafting an Annual Plan for Prevention of Corruption, which will cover conflicts of interest and ethical behaviour to which labour inspectors are subject. In parallel, an Ethical Code has been drafted by the Inspection Council which should be complemented by the Code for Civil Servants.

In Montenegro, where the ethical behaviour of labour inspectors is regulated in specific Labour Inspection laws, inspectors may be dismissed for performing inspections unprofessionally or negligently or for being involved in an economic activity that is incompatible with inspection work. They may also be sentenced to a minimum six months in prison for criminal offences that render them unworthy of the position of inspector. However, an inspector dismissed from duty for the reasons given above may be reassigned to another position within the same entity, if possible, or retain the rights and obligations of a public servant whose position is found to be redundant in line with the Law on Public Servants. The Montenegrin Code of Ethics for Civil Servants and Other Civil Service Employees, which is applicable to labour inspectors, also lays down certain rules to be respected in daily work (for example, behaviour at work or out of working hours that does not bring the labour inspectorate into disrepute, proper use of official ID, sticking to official positions in public appearances, confidentiality, and so on). In order to ensure ethical behaviour, labour inspectors in Montenegro are required to sign written statements that they understand their obligations under the Code.

In Kosovo, the matter is regulated by the special Law on the Labour Inspectorate, according to which labour inspectors may not have any personal interest in enterprises within their scope of inspection and competencies and are obliged to maintain confidentiality.

In relation to the anonymity of complaints, all inspectorates in the Western Balkans maintain confidentiality in respect to the complaints presented by workers or by any other citizen, as

required by Article 15 (c) of ILO Convention No. 81 and Article 20 (c) of Convention No. 129. In Montenegro, for instance, the Law on the Labour Inspectorate lays down that labour inspectors must keep in strict confidence the identity of persons who submitted initiatives/reports of breaches of laws, bylaws, collective agreements or employment contracts. Furthermore, inspectors are not allowed to inform employers that they are being inspected as a result of such initiatives and reports. However, according to the information supplied in the ILO questionnaires, in some cases national legislation provides for exceptions if the persons involved in the complaint have an interest in participating in the inspection in order to ensure that their rights and legal interests are protected (BiH: entity Federation of BiH-Sarajevo Canton).

Finally, some of the answers to the ILO questionnaires link the integrity, accountability and authority of qualified inspectors to their status, in particular their financial status. It is risky to have inspectors with higher education and expertise among the lower paid public servants. Therefore, some inspectorates (Montenegro) advocate further action to improve labour inspectors' financial status to reinforce their integrity, accountability and authority in line with the important role they play.

4.4 Non-staff resources, office facilities, transport

In most Western Balkan economies, the number of offices tends to be proportionate to the number of inspectors, the inspection workload and the territorial organization of labour inspection. Offices are generally equipped with computers and internet access, and inspectors are (in most cases) provided with PPE. Some labour inspectorates also provide inspectors with cameras and equipment for measuring and sampling working conditions. Not all inspectorates have OSH measurement equipment (Kosovo), and some inspectors may not be familiar with or specialized in the use of certain equipment, and consequently request assistance from other technical inspectorates (Albania) or licensed companies (Kosovo) in conducting measurements.

Regarding transport, all inspectorates have official vehicles, which are distributed by local offices, based on the number of inspectors working at each office. The vehicles are assigned to labour inspectors when required for field visits. According to the answers to the ILO questionnaire and further information collected, it appears that in some cases the number of vehicles is insufficient (for example, Albania).

In some economies, inspectors are entitled to reimbursement of travel and other incidental expenses (fuel), receiving it at different time intervals, after providing proof of the expenses incurred. In these cases, the costs of public transport are reimbursed and inspectors are entitled to per diems when performing inspections more than a certain number of kilometres away from their station (for example, more than 30 km away in Montenegro). Occasionally, inspectors may be rotated and carry out inspections in municipalities outside their jurisdiction. Missions are also organized to attend joint group activities involving inspectors from different offices or to attend misdemeanour proceedings and are regularly reimbursed upon return (Montenegro).

Table 2 provides summarized information on the situation in the different Western Balkan economies in relation to non-staff resources, offices and material means, based on information supplied in the answers to the ILO questionnaire.

► Table 2 Non-staff resources, offices and material resources

	Albania	BiH entity Federation of BiH-Canton Sarajevo	BiH Entity Republika Srpska	Kosovo	North Macedonia	Montenegro	Serbia
Number of offices	7 local departments; 61 personal offices	12 (personal offices)	6 local departments	7 local departments + central premises	10 local departments; 32 personal offices	15 local departments	Central offices, 13 local departments 14 sections
Computers	✓	✓	✓	✓ ⁴	✓ ¹	✓	✓
Internet access	✓ ⁶	✓	✓	✓ ⁵	✓	✓	✓
Printers/scanners				✓	✓	✓	
Laptops with internet		Tablets				✓	
PPE	✓	✓ ⁷	✓			✓ ³	✓
Cameras	✓	Tablets	✓			✓ ³	
Measuring equipment	✓ 1 equipment	✓	✓			Only laser distance measurer	⁹
Vehicles	7	5	8	21 ⁵	44 ²	24	64
Reimbursement of expense	✓ Per diem	✓	✓	✓	✓	50€/month public transport per diem	

Notes:

¹ Some outdated;

² Insufficient;

³ Not all inspectors;

³ Only OSH inspectors;

⁴ Outdated;

⁴ Not working well;

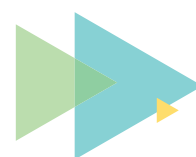
⁵ Old cars;

⁶ Incomplete;

⁷ Seen as insufficient;

⁸ Request to other technical inspectorates;

⁹ Request to other technical inspectorates.



▶ 4.5 Inspectors' legal status and powers

The legislation in most Western Balkan economies defines a (labour) inspector as a civil servant with special authority, rights, responsibilities and tasks, who meets the requirements to perform inspections and is subject to the general rights and obligations of civil servants. The status of labour inspectors is regulated by specific labour inspection legislative provisions and, in a complementary way, by general civil service legislation.

Labour inspectors are in most cases employed in an indefinite employment relationship, although in some economies (**Montenegro**) they are employed for a renewable fixed-term relationship, which would not be in line with Article 6 of ILO Convention No. 81, which provides for stability of employment.

In some economies, the powers of labour inspectors are vested in them by specific social legislation (BiH: entity Federation of BiH-Sarajevo Canton), by special legislation on labour inspections (BiH: entity Republika Srpska) or by general legislation on the Inspection Administration, if such an organization exists.

Labour inspectors in all Western Balkan economies possess powers in line with international standards, namely:

- ▶ to freely enter economic units at any time of day or night and to inspect facilities, equipment, or machinery;
- ▶ to enter workplaces without prior notice to the employer;
- ▶ to interrogate or take statements from the persons responsible and all other involved parties;
- ▶ to inform and advise employers, employees, their representatives, and trade unions on the results of the inspection and on the measures taken in order to ensure compliance with the law;
- ▶ to provide information on inspections performed and their findings at the request of an employer, an employee or their representatives;
- ▶ to take copies and/or extracts of documents;
- ▶ to examine registers and books (logs of wages, working time, etc);
- ▶ to conduct sampling and measurements, as required;
- ▶ to talk to workers outside the presence of employers;
- ▶ to require that employers remedy defects observed in plants, workplace layouts or working methods that inspectors reasonably believe constitute a threat to the health or safety of workers;
- ▶ to propose or impose fines or to file motions to initiate administrative or criminal proceedings;

In the area of health and safety at work, labour inspectors may also temporarily halt or suspend enterprise activities in case of imminent danger to the safety and health of workers and during the entire duration of the circumstances that put workers in danger. In some economies, inspectors may also decide to stop work if the workers are carrying out high-risk work without the necessary professional requirements or training, using a tool or equipment without the appropriate safety protection, or not making use of PPE. The same applies if mandatory health examinations are not passed or when the employer fails to implement the measures required by the labour inspector to eliminate risks to workers' safety and health. If achieving an appropriate level of safety and health for workers requires major investments, labour inspectors may order the employer to prepare a work programme to eliminate irregularities within a specific deadline, provided that workers' lives and health are not in great danger (Serbia, BiH: entity Republika Srpska).

In North Macedonia inspectors are authorized to prohibit employers from continuing their business activities where there is an immediate danger to workers' health or life. The prohibition enters into force immediately and lasts until the problem described in the decision to impose the prohibition has been dealt with.¹² Where appropriate, the interdiction can be replaced by a fine, but only in case of a first offence. In this case, the fine is twice as high as regular fines, which offenders are supposed to pay within three days.

In certain cases, OSH legislation bestows further powers on labour inspectors (for example, they may require an employer to appoint an employee to assist the inspector with information and data, to provide evidence of the stability of a building, to prove the efficiency of OSH measures, to ensure access to PPE, or to provide production data and records, as in Serbia). Labour inspectors may also be empowered to demand that employers carry out specialized measurements, either themselves or by bringing in an external expert, when the measurement procedures or results justify it (Serbia). In some jurisdictions, labour inspectors may temporarily seize objects and items that have been used to commit a punishable action until the matter has been resolved (Montenegro).

Inspectors also have specific powers to prevent violence; they may warn or remove from the scene all persons who may hinder or obstruct an inspection, fine them, if necessary, or request the assistance of the police (Montenegro). In some economies, there is no special (protection) protocol or regulation other than the one provided for civil servants, so labour inspectors do not enjoy any additional compensation (protection) for risks they may face during the exercise of their legal mandate (Kosovo). Notwithstanding the options provided by the law, most inspectorates do not issue specific internal written procedures/protocols to prevent violence against inspectors (BiH: entity Republika Srpska, among others). In other jurisdictions, however, the labour inspectorate has signed an MoU with the police providing for protection for inspectors where necessary (Albania). Elsewhere inspectors may enjoy criminal justice protection under the law (Serbia).

As regards inspectors' salaries, in all Western Balkans jurisdictions they are deemed to be low or just not commensurable with other civil servants in a similar category or with their counterparts in other inspectorates. Some of the reports of the peer review teams highlight this issue, suggesting either that labour inspectors' salaries be increased or that they be paid compensation for working under special and risky circumstances (for example, a 30 per cent bonus for inspectors defined by law in BiH: entity Federation of BiH–Sarajevo Canton or a high-risk allowance in North Macedonia).

¹² Article 50 paragraph 2 of the Law on OSH.

▶ 4.6 Working with social partners

The labour inspectorate collaborates with social partners at various levels. It sometimes works on an ad hoc basis, with regard to concrete issues or situations. One example is inspections in which the enterprise's union representative is notified in advance. This collaboration also comes up in the context of awareness-raising and inspection campaigns, official inspection reports and information published in the labour inspection web page, joint meetings, participation in round tables and so on (Albania, Kosovo, Serbia, among others).

Inspectors also work with the social partners as a result of reports submitted by trade unions on potential violations of members' or other workers' employment rights. After an inspection, the relevant unions receive feedback and information (as in BiH: entity Federation of BiH-Sarajevo Canton, among others).

Snapshot Box 6

The Labour Inspectorate of Montenegro cooperates with the Union of Employers and the representative national trade unions, namely the Association of Trade Unions and the Association of Free Trade Unions, exchanging information and discussing matters of common interest, but also by responding to their requests and initiatives, in line with the MoU signed in 2017. The MoU confirms the importance of collaboration between the signatories in order to strengthen social dialogue and contribute to a more orderly labour market.

The State Labour Inspectorate of North Macedonia has also signed an MoU with the employers' organizations, workers' organizations and non-governmental organizations concerned with occupational safety and health and the protection of workers' employment rights.

The social partners also interact with labour inspectorates through the meetings of tripartite committees, such as the Economic and Social Council or the National Health and Safety at Work Councils present in some of Western Balkans jurisdictions, at which representatives of the government, workers and employers discuss labour and OSH issues (Kosovo, North Macedonia, Serbia). These Councils have authority to draft policies, follow up developments and issue recommendations on labour and OSH matters. They are also attended by experts in labour relations, OSH or occupational medicine (Kosovo, North Macedonia, BiH: entity Republika Srpska).

13 There are countries for which no information on this has been supplied in the ILO questionnaires related either to Economic and Social Councils or to the OSH National Council (Albania, Montenegro).

In some economies, labour inspectorates have also built bridges of cooperation with professional associations, taking advantage of seminars, workshops or consultations (for instance, in BiH: entity Republika Srpska this type of collaboration has taken place with the professional association of OSH engineers).

Finally, according to the information provided in the ILO questionnaires, there are no labour inspection tripartite committees in the Western Balkans, understood as composed of social partners and labour inspection representatives and focused on labour inspection issues, policies and plans.

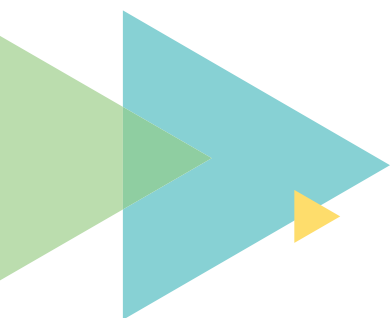
4.7 Guidance and orientation

General administrative legislation and specific labour inspection legislation regulate inspection procedures and actions. In some economies, however, there are complementary instructions or manuals that are produced internally. Not all inspectorates make use of prescribed methodologies or manuals, and inspections may only rely on hierarchical instructions (BiH: entity Republika Srpska) or are oriented by general guidelines that can be found in the current literature. Other economies do not have manuals or guidelines at all (Montenegro, BiH: entity Federation of BiH–Sarajevo Canton). Often, inspectors even lack guidance to assist their decision-making with regard to enforcement. In many cases, inspectors decide themselves, in accordance with the law, which measures to take, guided by the usual practices of their colleagues in similar situations.

Conversely, an inspection manual was adopted in Albania in 2015. The manual encompasses inspection procedures and documentation rules (although they have changed since then). The documentation rules need to incorporate data and information relevant to the risk analysis and for better planning of inspections, focusing also on legal provisions that are difficult to implement and other elements covered by the labour inspection that are not reflected in legal provisions.

In Montenegro, the labour inspectorate uses a general manual of the Administration for Inspection Affairs, which is applied by all inspectorates under this Administration (“Internal Procedure for Acting upon Initiatives”).¹⁴

¹⁴ In accordance with the ILO report “Rapid assessment of the labour inspection system in Montenegro”; ILO, UN Eco Building Stanka Dragojevic a.b. Podgorica; para 30.



Snapshot Box 7

In Serbia inspectors use at least five sets of instructions on inspection procedures (inspections of labour relations or OSH, preparing risk assessment reports, inspections of occupational accidents, inspections of on-the-job training and inspections of child labour abuses).

Serbian inspectors also use guidelines developed by international institutions or funded projects (for example, *Pocket guide for the identification of victims of human trafficking* developed by the Council of Europe; *Guidelines for keeping safe and healthy when working from home*, prepared by the Occupational Safety and Health Administration or the project funded by the Netherlands' Fund for Regional Partnership, MARTA, on the *Methodology for the implementation of misdemeanour plea bargaining in areas subject to inspections*).

North Macedonia's labour inspectorate also uses a manual, the *Methodology for conducting inspection supervision and a Guideline on the manner of conducting investigations into cases of death, and collective or more serious occupational injuries*.

In Kosovo, the labour inspectorate follows a *Practical guide to the structure, content and procedure of labour inspection visits and an Official Report*.

Despite these examples of guided labour inspection, in general the inspectorates of the Western Balkans make scarce use of such manuals or guidelines.



Peer reviews, 2021.

Photo - Employment and Social Affairs Platform 2 (ESAP 2)

► 5. Planning inspections and related activities

In most EU economies, the inspectorates plan their activities in accordance with the strategies and policies adopted by the government in consultation with social partners. In the Western Balkans, the planning of labour inspections is no different. In Serbia, for example, the strategic priorities of the labour inspectorate stem from the Annual Inspection Plan, the Strategy on Occupational Safety and Health (2018–2022), the Action Plan for its implementation, and the National Programme for Countering the Shadow Economy (most recently for 2019–2020) and its Action Plan. Equally, the State Labour Inspectorate in North Macedonia adopts triennial Strategic Plans.

In Montenegro, the Inspection Administration prepares Annual Work Plans, which include the Work Plans for the Labour Inspectorate. These Work Plans incorporate the requirements of different national strategies and action plans (the Strategy for improving occupational safety and health conditions, the Anti-human trafficking strategy, the National employment and human resources development strategy, the Gender equality action programme) and draw on the Inspectorate's information system for its development. Planned actions are broken down by month and by type of economic activity, prioritizing the activities found to be high-risk due to frequent breaches of the law, a lot of occupational injuries, and so on.

Kosovo's labour inspectorate also bases its planned activities on a Strategic Development Plan (the last one was for 2017–2021) and its work plan, which in particular focuses on undeclared work and workers' occupational safety and health. In other economies, planning inspection activities follows a given regulation, as is the case in BiH: entity Republika Srpska through the *Rules on planning and reporting in the Republika Srpska Inspection Administration* (No. 26.011/090-9-1/10, of 31 December 2010).

The response to the Covid-19 pandemic to some extent disrupted inspection targets and schedules in some economies. For instance, labour inspectors in BiH: entity Republika Srpska were temporarily authorized to act also as health Inspectors to help implement measures aimed at preventing the rapid spread of the virus. In Serbia coordinated actions were carried out with other inspection bodies.

► 5.1 National and local planning and priority setting

Detailed inspection planning and the number of inspections are organized in different ways in each of the Western Balkan economies, although most take into account the risk assessment factor. In general, planning is organized at different levels. Annual planning is done by the Head of Labour Inspection or Inspection Administration, who submits it to the competent policymaking body

Detailed inspection planning and the number of inspections are organized in different ways in each of the Western Balkan economies, although most take into account the risk assessment factor. In general, planning is organized at different levels. Annual planning is done by the Head of Labour Inspection or Inspection Administration, who submits it to the competent policymaking body (for example, a ministry) or to an advisory body (for example, the Inspection Council in North Macedonia). In other cases, the plan is drafted by the relevant ministry and then implemented by the labour inspectorate (Kosovo).

The inspection plan is usually broken down into trimonthly or monthly work programmes and particularized for each inspector, including the number of planned inspections. In some economies, planning is done using a risk assessment methodology. For instance, the State Labour Inspectorate of North Macedonia analyses data from inspections and selects inspection targets following various parameters, such as risky sectors in which irregularities are most frequently detected, size of legal entities in terms of number of workers, sanctions imposed, incidence rates of occupational accidents, as well as available resources. This risk assessment methodology is based on three risk levels: low, medium and high.

Snapshot Box 8

In Albania, inspections are classified into scheduled and unscheduled or unplanned. Planning of scheduled inspections takes into account the risk level due to different factors and planned inspections are broken down into sectoral and regional levels. Planning takes into consideration information on advice or warnings issued, activity risk, accidents at work records, rotation of labour force, records of offences, permits issued to employers for young workers or for overtime.

The Albanian Labour Inspectorate is about to develop a platform that records data on companies previously uninspected or with a given history of inspection. A list of businesses to be inspected is produced according to coefficients for the relevant elements. Scheduled inspections follow an approved plan and the inspection system “e-Inspektimi” (with two modules, the Programming Module and the Inspection Case Module) is expected to be a useful tool for planning inspections and automatically selecting entities for inspection.

The risk assessment methodology is intended to work as follows. For entities without inspection records, the relevant data are drawn from the files of the National Registration Centre and from the Tax Directorate, to which entities are required to declare certain information (for example, identification code, number of people employed, and so on). These data are exported to the Matrix of Penalties platform and the risk level for entities without inspection records is determined by the sum of different coefficient values (calculated according to the number of employees and type of activity, assigning a higher coefficient to more risky activities).

For entities with inspection records, the risk assessment takes into account several factors and elements (existing PPE, number of employees working with hazardous substances, number of injured employees, cases of informal workers, existence of workers' representatives, existence or OSH risk assessment). Specific coefficients are calculated for each of the abovementioned elements, considering number of employees, type of inspection, type of activity and record of violations. The system automatically calculates a risk coefficient (after data entry) and each company is classified under a given risk level.

The entities are thus classified into several risk groups: very low risk, low risk, moderate risk, high risk and very high risk. Furthermore, the classification of entities is refined by a risk coefficient based on the inspection type/reasons to initiate an inspection (accidents at work, complaints, random inspections, follow-up inspections, authorizations enabling the company to employ minors, overtime hours, work permits). With a higher coefficient, the company would be selected for inspection. The Matrix of Penalties filters the risk level and generates the list of companies with the relevant coefficient for which the planning is performed.

Until the system is fully operational, labour inspectors organize their planning in accordance with the guidelines given by the Regional Directors and approved by the General Directorate of the SLSSI every 25th of the previous month. The selection of entities to be planned for follows certain elements, namely, type of activity (heavy work activities such as mining, construction, manufacturing, and so on), entities with a poor record of accidents at work in the past three years, entities reported to be violating legal provisions on OSH or undeclared work, entities with a high number of employees, entities that have not been inspected at all or entities that have not been inspected for at least two years.

In BiH: entity Federation of BiH-Sarajevo Canton the labour inspectorate takes into account the activities planned by the Sarajevo Canton Government, the Federal Inspectorate, the line ministries and other relevant authorities throughout the country. The Annual Plan of the Canton determines the total number of inspections and the number of inspections to be performed by each inspector in all branches: labour relations, workplace safety and social protection inspectors. The line ministries and other competent Sarajevo Canton public services comment on the draft plan. The plan is broken down into monthly work plans detailing the entities to be inspected. The implementation of the Plan depends on the number of available inspectors and the number of reports of violations received that need a response within legally binding deadlines. The planning may be subject to changes due to different circumstances arising from on-the-spot and day-to-day inspection activities.

In Serbia, the Inspectorate must prepare Strategic (Multiannual) and Annual Inspection Plans. The Annual Inspection Plans are implemented through semi-annual, quarterly and monthly Operational/Action Plans. The Inspection Annual Work Plans include measurable objectives, methods for achieving the objectives, scope, frequency and periods of inspections, risk assessment, entities to be inspected by area and by risk level, geographic scope of the inspections, type of inspections to be carried out and resources allocated for the inspections. In accordance with the criteria mentioned above, the Plans generally include economic activities with higher safety and health risks, sectors in which many occupational accidents and diseases have been identified over

the previous year, and sectors with frequent violations of labour law and related to undeclared work. In smaller inspection offices and local offices, the Plans need to be adjusted to the inspections scheduled for seasonal activities.

In Kosovo, a Strategic Development Plan for the Labour Inspectorate and Annual Plans are produced, based on statistical data on accidents at work, high risk sectors, sectors with a high undeclared employment rate and records of violations of legal provisions. These plans include inspection visits requested by other bodies or in response to complaints, inspections approved by the Regional Coordinators based on past experience and reports from other inspectors or required by national and international campaigns. Inspectors receive training and a compilation of checklists for different risks at the workplace in order to implement the plans.

In BiH: entity Republika Srpska, the work of the inspectorate is planned as provided for in the Rules on planning and reporting in the Inspection Administration.¹⁵ Planning is centralized and inspection plans are adopted, monitored and reviewed on an annual basis. Annual reports on plan implementation are submitted to the competent authorities and six-monthly reports are submitted to the relevant minister.¹⁶ Scheduled regular or preventive inspections are planned taking into account the type of economic activity of an employer, prioritising the activities with higher risk of occupational accidents or prone to non-compliance with labour regulations. Other criteria are also envisaged, such as the geographical scope of businesses, number of employees, intensity of seasonal work, frequency of past inspections (prioritizing previously uninspected entities or entities with past irregularities, companies working in shifts, and so on). Another criterion for selecting entities to be inspected is whether they have been subject to frequent inspections or audits by other inspectorates (mining, technical, health, and so on).

5.2 Techniques for inspection and investigation

Frequency of inspections

There are different rules for determining the frequency of inspections in different labour inspectorates. Inspections are performed as frequently as required to ensure compliance with the inspection plans and regulations and as far as the capacities and resources of the labour inspectorate allow. Reports and complaints from workers and social partners, general work plans of the labour inspectorate, data analysis, seasonal activities, and risk assessment, all have an impact on the number of inspections and their frequency. In some economies, the rule is that every employer must be inspected at least once a year, but this is not an easy objective, given the low human and technical capacity (Kosovo). In other economies, the frequency of inspections is determined on the basis of the previous month's planned inspections, in line with the annual plan for the inspection service (North Macedonia).

¹⁵ No. 26.011/090-9-1/10, of 31 December 2010.

¹⁶ ILO - DWT/CO for Central and Eastern Europe, Bosnia and Herzegovina; Labour Inspection Needs Assessment and Work Plan, p. 19; see https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_240094.pdf

The frequency of inspections is often linked directly to the type of risk, so that critical or high-risk workplaces (as regards labour relations or occupational safety and health) must be inspected at least once every six months to reduce the risk level. In this respect, enterprises at which serious occupational accidents or severe work injuries have occurred are classified as critical or high risk. The same applies to employers found in breach, employing one or more unregistered workers or workers under 15 years of age, or to employers without prior registration or when there is a reasonable doubt that an employer has committed a criminal offense. The employers classified as medium-risk must be inspected at least once a year to reduce that risk and the employers classified as low risk must be inspected at least once every two years (Serbia).

► How and when inspections are carried out

The enforcement of legal provisions requires inspections. These may be proactive (planned inspections) or reactive, following a complaint or an accident at work. In the Western Balkans, labour inspection is often primarily preventive and then repressive. This includes measures both to prevent and remove irregularities and to impose sanctions and, where appropriate, prohibitions on detected irregularities and deficiencies.

Inspections are also classified as regular inspections (in accordance with inspection planning) and as non-scheduled or extraordinary inspections (due to unexpected accidents at work, urgent complaints related to serious breaches, requests from other authorities, administrative or judicial, or follow-up inspections to check whether an employer has complied with an improvement notice).

With regard to the timing of inspections, there are generally no specific regulations. Only inspections after an accident at work are legally required within a certain deadline, as explained in Section 6.2. On the other hand, some inspectorates follow an internal procedure for responding to initiatives or requests, providing rules for their classification and setting response deadlines (within 8 days in Montenegro, depending on the initiative, or within 30 days in BiH: entity Republika Srpska).

Snapshot Box 9

In BiH: entity Federation of BiH-Sarajevo Canton, article 38 of the Law on Inspections lays down that regular inspection plans must ensure that labour inspectors do not spend more than 12 working days a year inspecting the same entity, unless the entity has one or more organizational units, in which case the audit can last up to 24 working days a year.

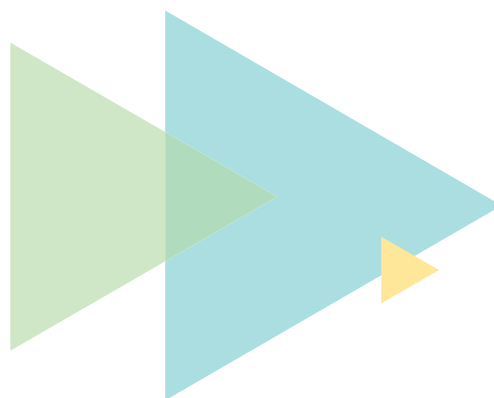
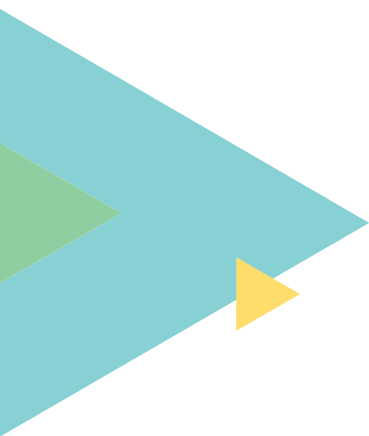
In general, inspections are not announced in advance to employers or employees. In certain cases, and under certain circumstances, the (complainant) employee may be informed of the inspection if they have an interest in participating in the inspection in order to make sure that their rights and legal interests are duly protected, as explained in Section 4.3 (BiH: entity Republika Srpska).

In other economies, the law envisages that inspectors announce the inspection to the employer (Law on Inspections in Serbia). In this respect, the ILO CEACR has stated that such a practice, taken as a rule, implies restrictions on the powers of inspectors and impairs their ability to undertake inspection visits without previous notice. However, as explained in Section 6.3 of this report, labour inspectors in Serbia do not announce inspections if by doing so the inspection becomes ineffective. This is of particular importance in inspections on undeclared work. Going into more detail, under the Serbian Law on Inspections, an inspector must notify the entity to be inspected no later than three days before start of the inspection. The notification is typically done electronically but can also be paper based. The notifications always include a link to the applicable checklist at the home page of the Inspectorate. The Law on Inspections provides for the possibility of unannounced visits when:

- ▶ immediate actions are necessary;
- ▶ announcing the inspection would weaken its effect;
- ▶ it is so required by the public interest or to eliminate any threats to the lives and health of the workers or to their rights and interests;
- ▶ the employer inspected or a third party could hide, destroy, restate, damage or render useless evidence or documents.

The reasons for unannounced visits must be explicitly stated in the inspection order and supported by known or probable facts. If an inspection is carried out without any order, the reasons for choosing not to notify the entity inspected must be stated in the inspection report. Annually, on average, the Serbian Labour Inspectorate does not provide previous notification to the entities in 93 per cent of cases. The other 7 per cent of visits are regular inspections duly announced in writing at least three days in advance.

Inspectorates in the Western Balkans commonly use checklists. These checklists are usually published at the labour inspectorate web page and apply more often to regular inspections than to reactive inspections, although they may also be used for extraordinary inspections if they are compatible with the objective and nature of the inspection.



► 5.3 Reporting

All labour inspectorates in the Western Balkans provide monthly, quarterly, six-monthly or annual performance reports to the competent line ministry, the government or other relevant national institutions (BiH: entity Federation of BiH-Sarajevo Canton, Kosovo, Albania, Montenegro, North Macedonia, among others). The reports include numerical data on the inspections performed, measures taken and misdemeanour and penalty notices issued, including the number of persons found working without work permits or without legal employment status (for example, BiH: entity Federation of BiH-Sarajevo Canton).

Reports are also sent to international institutions, such as the ILO (for example, Albania, Serbia) and usually published in the labour inspectorate's official website (Albania, BiH: entity Republika Srpska, Kosovo and Serbia). In some economies, the labour inspectorate provides reports to the employers' organizations and major trade unions (Serbia). Extraordinary (special) reports are usually prepared on matters that need to be further regulated by bylaws, as mandated by a law (BiH: entity Republika Srpska).

► 5.4 Formal enforcement actions, prosecutions and other sanctions

Specific legislation on labour inspection in the Western Balkans always defines the procedure for conducting an inspection, its scope and format, and the rights and obligations of the persons involved. The legislation of most Western Balkan economies provides for different misdemeanour proceedings in the areas of labour relations, employment, migrant workers and work permits or occupational safety and health. In some cases these things are subject to different laws. The inspectors are in general empowered to file motions to initiate misdemeanour proceedings against the entities inspected and to file criminal charges against the persons responsible, where appropriate.

The answers to the ILO questionnaire mention some legal gaps or less tractable issues in terms of enforcement. For instance, in BiH: entity Republika Srpska acts of violence, (sexual) harassment or bullying at the workplace have not been properly penalized under the law, although there are legislative drafts in preparation in which labour inspectors are empowered to inspect and, if need be, impose fines on employers who commit offences related to those acts.

In general, labour inspectors must follow the rules and principles of public service and the specific procedures provided for by special legislation or, failing that, the general administrative procedure. According to the ILO questionnaire, labour inspectors in the Western Balkans work with a high degree of technical independence as regards the type of measures they should take in specific cases, provided that the measures taken are proportionate to the seriousness of the non-compliance or the risk detected.

Inspectors may take similar enforcement measures in all economies, namely:

- ▶ advice or warning, where the inspector verifies a lack of legislative compliance by the employer;
- ▶ an improvement notice, where the inspector detects an irregularity;
- ▶ a fine or a motion to initiate a misdemeanour proceeding;
- ▶ a prohibition notice halting an employer's activities or part of them in case of a serious breach and/or imminent danger to the lives and health of workers;
- ▶ a decision to seize or freeze evidence, documents or goods;
- ▶ a report to the Public Prosecutor's Office of a criminal violation found during the inspection;
- ▶ a report to other government bodies of any actions needed that fall within their remit.

As regards other formal measures, following a violation by an employer, labour inspectors in some economies may propose to withdraw a certificate or a license from the employer, such as those entitling them to OSH services or experts (Albania and Kosovo).

▶ Initiation of enforcement action and legal proceedings

Where irregularities have been found during an inspection, the inspector may issue a warning or an improvement notice, a prohibition notice concerning a given activity or part of it, a fine for a violation or a motion to initiate a misdemeanour administrative proceeding, a judicial proceeding or a report to the Public Prosecution Office.

The general rule is that labour inspectors primarily provide advice to employers on the best way to achieve the purpose of the law and other regulations, reasonably assessing the feasibility of the measure to be taken by the employer, minimising the adverse consequences and ensuring uniform application of the law (for example, Serbia). In some cases, inspectors base their decisions on guidance provided by the labour inspectorate, as in Albania with the so-called Matrix of Penalties, which serves as a helpful platform for applying the proportionality principle to the identified violation.

Inspection actions start with a written report, which is sent to the employer with a deadline for addressing the irregularities found (Kosovo, North Macedonia, Albania, Montenegro). A second inspection visit may be carried out in order to verify whether the employer has dealt with the problem (Kosovo).

In some cases, the employer has the right to appeal this report within a given deadline (for example, eight days in North Macedonia). The employer's right to appeal the inspector's decision is regulated in detail in some countries. For instance, in North Macedonia, in case of a formal decision requesting the correction of irregularities, the employer can appeal this decision within 15 days of receipt. The appeal is reviewed and resolved by a second-instance body (State Commission).

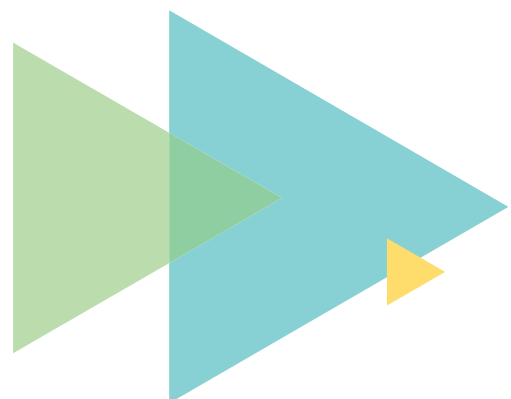
► Procedure for a prohibition order

In all economies, labour inspectors are authorized to issue an order to temporarily stop certain activities or part thereof. In most EU economies this order may be issued by labour inspectors where an imminent danger threatens the life, safety or health of workers. Halting employers' activities for matters other than occupational safety and health is seen as exceptional.

In this respect, it should be noted that labour inspectors in the Western Balkans possess fairly strong powers to prohibit activities in cases where an employer is in serious breach of the law or is putting workers' life and health in danger (Montenegro, Serbia, North Macedonia, BiH: entity Republika Srpska, Sarajevo Canton, Albania, Kosovo). This power is not considered discretionary, but as mandatory. For instance, in Montenegro, inspectors are empowered with a broad array of possibilities for halting employers' activities if they deem that workers' lives or health are in imminent danger, or the employer fails to abide by the instructions of the inspector, or fails to put in place the required OSH measures or provide PPE to workers, or uses tools and equipment not in line with OSH regulations, or fails to carry out obligatory medical exams (high risk activities) or to train workers to perform their tasks safely. The prohibition order may involve sealing the equipment, work units or premises and is not lifted until the circumstances that led to the prohibition have been removed.

Furthermore, inspectors in Montenegro may stop work at an enterprise if they find out that the employer has failed to conclude an employment contract with either a national or a foreign worker, to formalize an indefinite contract with an employee working beyond the limit of a fixed-term contract, to register a worker with the Social Security authorities or to pay Social Security contributions or due wages. The Albanian labour inspectorate is empowered to halt the activity of undeclared workers found during the inspection. Decisions on prohibiting activities where the employer does not have the relevant business registration papers is possible in BiH: entity Republika Srpska.

The procedure for issuing prohibition orders varies from one economy to another. Most often, as in Kosovo, the employer may resume work only after removing the source of danger and submitting a request to the labour inspectorate. The inspector lifts the prohibition only after visiting the workplace and checking that the deficiency has been resolved. Nevertheless, an employer may appeal against the decision of an inspector within eight days of receiving it. In this case, the labour inspectorate reviews the appeal within sixty days and the employer who does not agree with the initial decision may challenge it in court within thirty days of receipt. The appeal does not entail suspension of execution of the administrative decision.



► Administrative financial penalties

Fines and their range are defined by special laws whose application is checked by the labour inspectorate. Labour inspectors may issue administrative fines for breaches of law, but also for failure to comply with an inspector's notice (for example, in BiH: entity Republika Srpska the fine may be between 3,000 BAM and 9,000 BAM). Fines are addressed to employers who fail to comply with the law, whether they are physical persons or legal entities.

The range of administrative fines and the relevant currency are explained in detail in the individual peer review reports, and the law generally lays down minimum and maximum amounts for financial penalties. It should be noted that in several economies the law also allows the imposition of fines on natural persons responsible within a legal entity, although these are lower than those addressed to legal entities (Montenegro, BiH: entity Republika Srpska). In one case (BiH: entity Federation of BiH–Sarajevo Canton), the law also provides for the possibility to sanction undeclared workers.

According to the information supplied in the answers to the ILO questionnaires, on-the-spot fines under a fast procedure are not generally available in the Western Balkans, and fines are imposed within the framework of an administrative proceeding after being instigated by an inspector.

Legislation in some places provides for specific rules in relation to multiple violations, in which individual fines are imposed for each offence committed but merged under the final decision into a single fine (BiH: entity Republika Srpska). In other countries, inspectors may impose a fine at double the maximum value stipulated for a given violation in the case of recurrent breaches by the employer (Albania). In Serbia, if labour inspectors find an employer with multiple unregistered workers, they initiate only one misdemeanour proceeding, considering the various offences (one per unregistered worker) en masse and part of a continuous practice of violating the law. This has a bearing on the amount of the fine.

► Criminal proceedings

For criminal breaches, the Criminal Code applies in each country. In Serbia, for instance, the Criminal Code lays down penalties of imprisonment from two to five years for employers or responsible persons who deliberately violate a labour or OSH law. These penalties may be increased to up to 8–12 years prison if the violation causes severe bodily harm to victims or the death of one or more persons.

In BiH: entity Republika Srpska, criminal penalties of up to 3 years in prison may be imposed on persons who deliberately and seriously fail to comply with labour law regulations, in particular on matters such as special protection of young people, women and disabled workers, overtime and night work, fundamental rights, maternity leave and lack of OSH measures or infringements against regulations on buildings, civil engineering or construction works that potentially put workers' lives and health at risk.

Although this does not apply in all countries, employers may be subject to criminal prosecution for violations of occupational safety and health or employment law, as only administrative fines may be imposed, because the enforcement system is based predominantly on administrative liability (Kosovo, Albania).

Snapshot Box 10

Some inspectorates have provided data in the ILO questionnaire on matters that tend to generate more penalties after inspections. For instance, in North Macedonia, inspections carried out as a consequence of workers' complaints and investigations of accidents at work show that the most common irregularities detected are as follows:

- ▶ **As regards occupational safety and health:**
 - ▶ on construction sites (inadequate scaffolds, openings without protective fencing or guardrails);
 - ▶ lack of OSH training and medical examinations;
 - ▶ lack of assessment of working equipment;
 - ▶ no safety statement and no workplace risk assessment;
 - ▶ harassment/bullying at work.
- ▶ **In the area of working conditions:**
 - ▶ non-payment of wages, contributions or allowances for overtime work, night work and holiday work;
 - ▶ violation of the right to daily or weekly rest and annual leave;
- ▶ **In the area of employment contracts and undeclared work:**
 - ▶ undeclared workers;
 - ▶ unlawful procedure for termination of employment contracts.

In Montenegro, most occupational safety and health penalties imposed by inspectors are related to:

- ▶ lack of adequate tools and equipment;
- ▶ lack of expert assessment that all the necessary OSH conditions have been duly met;
- ▶ lack of certificates that OSH training has been completed;
- ▶ lack of medical certificates of physical fitness to work in high-risk activities;
- ▶ not keeping all relevant OSH records;
- ▶ failing to provide PPE to workers;
- ▶ not providing a risk assessment;
- ▶ not appointing workers to be responsible for first aid or not taking anti-fire measures.

In the area of labour relations and employment, the most frequent penalties are related to:

- ▶ undeclared workers;
- ▶ lack of work permits;
- ▶ irregular payment of wages and salaries;
- ▶ not respecting legal leave entitlements (daily, weekly and annual rest).

In BiH: entity Federation of BiH-Sarajevo Canton, the most common penalties are imposed for failing to implement the instructions/notices of inspectors and for breaches on matters such as overtime work, annual leave, wages or working without employment contracts, in other words, undeclared work.

In Kosovo, most penalties imposed are related to OSH infringements, and also matters such as overtime, working time, non-use of annual leave, non-payment for overtime hours, employment without a residence permit and without a work permit.

▶ Proceeding deadlines

There is usually a deadline to initiate or complete the pertinent legal proceedings (60 days in Montenegro for initiating the procedure; 10 to 30 days between the detection of non-compliance and imposition of the penalty in Kosovo; from 1 to 30 days in Albania to complete the procedure).

In North Macedonia, after detection of the infringement, if the perpetrator of the violation fails to pay at least half the amount of the fine imposed, the deadline for submitting a request to initiate the legal procedure related to the misdemeanour is 30 days. The law lays down prescriptive maximum periods to complete procedures in BiH: entity Republika Srpska, namely, 1 year for fines up to 3,000 BAM or 2 years for fines above that amount, or 3 years with regard to criminal sentences of more than 1 year in prison.

▶ Shortcomings related to enforcement legal provisions

The information contained in the ILO questionnaires reveals certain shortcomings as far as the enforcement powers of labour inspectors are concerned. In fact, in some places, labour inspectors launch misdemeanour proceedings less often because it is the common practice of the courts to impose milder sanctions (Montenegro).

Elsewhere, the peer review team found that, where labour inspectors detect labour law violations they may only issue a report on them (referred to an administrative court for further prosecution and resolution), but have no right to impose sanctions themselves (Serbia).

Finally, fines that are not high enough may lack a deterrent effect, so the law should provide for mechanisms to update them regularly.

▶ 6. Thematic inspection/ specific topics

Three thematic inspection topics are dealt with in this section. One is the awareness-raising campaigns organized or participated in by inspectorates, including educational and promotional activities. A second topic is how inspectorates tackle accidents at work and occupational diseases. Last but not least is the issue of the informal economy, which is dealt with more extensively. This is because inspections of undeclared work are a core competence of labour inspection systems in the Western Balkans, and also because improving the efficiency of labour inspections in the fight against undeclared work is a priority within the framework of the ESAP 2 Project.

▶ 6.1 Awareness-raising, educational and promotional activities, inspection campaigns

Labour inspectorates in the Western Balkans countries launch comprehensive awareness-raising campaigns in different areas, such as occupational safety and health, labour relations or undeclared work. The target is the public in general and the objective is to make people aware of the importance of complying with social legislation and promoting decent work and social justice.

In some cases, an awareness-raising campaign focuses on specific issues, such as working safely at a height in the construction sector and measures necessary to prevent occupational injuries, together with promoting training of new and inexperienced workers on how to remain safe when working at a height (BiH: entity Republika Srpska).

Other ways of raising awareness include participation in different projects, working groups, seminars, conferences or meetings, as the North Macedonian labour inspectorate does. On other occasions, inspectorates conduct seminars and roundtables to raise awareness among employers and workers as regards occupational safety and health. For instance, every year the Kosovo labour inspectorate organizes events within the framework of the ILO's World Safety Day and the EU OSH campaigns.¹⁷

The labour inspectorate of Montenegro frequently answers questions from journalists and provides them with information on situations involving certain enterprises or on amendments of specific areas of labour law. The inspectors may also take part in radio and television programmes and thus contribute to a better public awareness of occupational safety and health regulations and how to meet legal obligations and ensure health protection by both workers and employers.

¹⁷ Desk review information.

Labour inspectors are also active in roundtables, conferences and seminars on specific issues and take this opportunity to inform different groups of stakeholders of the tools and measures available to inspectors and what actions they may take in certain situations. It is also worth mentioning that the home page of labour inspectorates or of the Inspection Administration offers a great deal of information on inspection activities to all interested parties.

Sometimes, employers are also made aware of the legislation they need to observe during inspections and through media reports, internet sites, by phone or by providing replies to questions in meetings at the inspectorate's offices (BiH: entity Federation of BiH-Sarajevo Canton).

The Albanian labour inspectorate, for instance, raises awareness among stakeholders through a number of different channels:

- ▶ Carrying out advisory or advocacy inspections, which are conducted mainly at new entities. Employers receive a prior notification of the inspection visit, in the form of comprehensive legal and technical information. The inspection results are recorded in the documentation completed by the inspectors.
- ▶ The official website www.inspektoratipunes.gov.al of the Albanian labour inspectorate provides clear information on the labour rights and obligations of both employers and employees.
- ▶ Awareness-raising campaigns for particular topics or issues through meetings, roundtables with representatives of employers and employees and dissemination of information materials such as posters, leaflets or brochures.

▶ 6.2 Occupational safety and health and occupational accidents and diseases

In all Western Balkans countries employers are obliged to notify the competent public bodies of accidents at work and occupational diseases. Labour inspectors may receive the information directly from employers or from third parties (police or a ministry) and carry out an inspection visit to the workplace where the accident at work or the occupational disease has occurred.

The investigation undertaken by labour inspectors covers the possible causes of the accident, taking witness statements and reviewing desk documentation (training certificates, medical exams, risk assessment, PPE, equipment, machinery, safety certificates). Evidence is collected on the spot and the inspectors carry out a reconstruction of the facts. If any irregularity is found, the inspectors proceed in accordance with the applicable legal provisions. In some countries, inspectors use manuals for reporting on and investigating an accident at work (North Macedonia). Table 3 summarizes how and to whom occupational accidents and/or diseases are notified, how data are collected, what is the level of reporting, the timing of the inspection visit after an accident or disease, whether the incidence rate is calculated and what are the sectors in which work accidents occur more frequently. The data included in the table have been drawn from the answers to the ILO questionnaires and might not be complete.

Despite patchy data, some preliminary conclusions may be drawn from Table 3:

- ▶ in all countries employers are obliged to notify the labour inspectorate of occupational accidents and diseases;
- ▶ no information is provided on the level of reporting or this is low in general;
- ▶ in two cases, the reason for the low reporting level is attributed to the existence of multiple competent bodies;
- ▶ there is not a single electronic register of occupational accidents and diseases;
- ▶ the number of occupational diseases notified is either none or very low;
- ▶ the deadline for employers to notify occupational fatalities or serious accidents or diseases ranges between immediately, 24 hours or 48 hours;
- ▶ the deadline for employers to notify occupational accidents or diseases causing more than 3 days' absence ranges between 24 and 48 hours;
- ▶ the authority to be notified is the labour inspectorate, although other public bodies are also notified;
- ▶ the inspection visit following notification of a work accident is immediate in two cases, 10 days in one case, as soon as technical and organizational resources allow in one case, and there is no available information in three cases;
- ▶ no labour inspectorate calculates incidence or frequency rates;
- ▶ the sectors in which accidents occur more frequently are construction, mines, quarries, forestry, manufacture, wholesale and trade, agriculture, transport, utilities.



Peer Reviews in Bosnia and Herzegovina, 2021.
Photo - Employment and Social Affairs Platform 2 (ESAP 2)

► Table 3

Occupational accidents/ diseases	Albania	Sarajevo Canton, BiH	Kosovo	Montenegro	North Macedonia	Republika Srpska, BiH	Serbia
Obligatory notification to labour inspectorate	Yes, online or by email	Yes, post, email, registry	Yes	Yes, written report	Yes, written	Yes, verbal or written	Yes, verbal or written
Reporting level	–	–	–	–	Outdated data	Low	–
Reason for low reporting	Competence of multiple bodies	–	–	–	–	Competence of multiple bodies	–
Single electronic register?	–	–	–	–	–	Expected	–
Number of occupational diseases reported	18 (suspected)	–	0	0	–	1 (2018)	–
Deadline for notification of fatalities, collective, severe	–	–	Immediately	24 h	48h	24h	24h
Deadline for notification of accidents leading to >3 days' absence	–	–	Immediate	24h	48h	3 days	24h
Authority notified	Labour inspectorate	Labour inspectorate	Labour inspectorate	Labour inspectorate	–	Labour inspectorate, Ministry	Labour inspectorate, Ministry
Inspector's visit	Immediate	Yes	Yes	Yes	10 days	As soon as technical and organizational resources allow	Immediately
Incidence rate calculated	No	No	No	No	No	No, independent experts	Yes
Compared with previous year	–	–	–	–	–	Upwards 6% all 3% serious Downwards 2% fatalities	–
Higher number of accidents	Mines Quarries Construction Manufacturing	Construction Manufacturing	Construction Manufacturing	Construction Wood Utilities Trade	Construction Transport Storage Mining Quarrying Manufacturing Wholesale Trade	Construction Wood & Forestry Production Electricity Mining & Quarries Wholesale & Retail	Construction Manufacturing Agriculture Forestry Transport Storage



► 6.3 Measures to tackle the informal economy

According to information provided in the media and a number of surveys on the subject, the share of informal/undeclared employment in the Western Balkans varies from one economy to another, ranging between 16–18 per cent in Serbia and North Macedonia (2019Q2) to 33 per cent in Montenegro,¹⁸ and 37 per cent in Albania (2019Q2),¹⁹ and between 20 and 30 per cent in Kosovo (2019).²⁰

By sector, the higher figures concern agriculture and domestic employment. For instance, in Albania and Serbia, informal workers account for about two-thirds of all workers in the agriculture sector. In Bosnia and Herzegovina and in Montenegro, informal employment in agriculture is higher than in Albania and Serbia. Informal workers are in general predominant in domestic employment and in construction (for example, in Montenegro informal workers in these sectors account for 91 and 36 per cent, respectively). In Bosnia and Herzegovina, construction has the largest share of informal workers (35 per cent) after agriculture.²¹

These figures are high enough to warrant paying particular attention to how inspectorates tackle undeclared work. Following the answers to the ILO questionnaire, as well as the feedback received at the abovementioned meeting dated on 18 March, all inspectorates in the Western Balkans have authority in the area of undeclared and underdeclared work and it accounts for a major part of their activities. In some countries this competence is shared with other public bodies, such as the Tax Administration inspection services, as explained below.

► Specific competencies and scope

In Western Balkans countries the law allows inspectorates to take all necessary actions to monitor employees who work without registration with the competent social insurance authority and without an employment contract. In some countries, inspectorates also have the authority to supervise, inspect and take measures in relation to foreign workers without a mandatory work permit.

Labour inspectors inspect workplaces and enforce legislation in all sectors, including agriculture. In relation to domestic workers, although labour inspectors have the competence to inspect their workplaces, in some countries constitutional concerns regarding the right to the inviolability of a private home have come to light, calling into question the legality of inspection visits to private

18 <https://sarajevotimes.com/share-of-informal-employment-in-western-balkans-ranges-from-18-to-33-percent/>

19 Western Balkans Labor Market Trends 2020; World Bank Group, The Vienna Institute for International Economic Studies; <https://wiiw.ac.at/western-balkans-labor-market-trends-2020-dlp-5300.pdf>, p.11

20 <https://www.ilo.org/budapest/countries-covered/kosovo/lang--en/index.htm>

21 Labour markets in the western Balkans, 2019-2020; study prepared under the overall guidance of the Regional Cooperation Council (RCC) in the framework of the Employment and Social Affairs Platform (ESAP 2), regional project, funded by the EU, p. 16; <https://www.esap.online/docs/136/labour-markets-in-the-western-balkans-2019-and-2020>

homes without a court order. Therefore, in some countries, inspection focuses on documentary supervision (Albania), while in others (Montenegro) the law does not exclude domestic workers from labour inspection in principle, but discussions on constitutional concerns are ongoing and a court order appears to be the way forward.

Even though all inspectorates in the Western Balkans are competent to deal with the detection and elimination of informal work, in some countries other public bodies also have authority in relation to undeclared work. In Albania, for example, the Tax Administration and the Social Insurance organization have authority regarding the collection of employers' social and health contributions. Also in that country, labour inspectors may identify, during their inspections, informal (undeclared) employees and immediately demand that the employer declare them to the General Directorate of Taxes. The undeclared employees are then entered in the social insurance scheme as a result of the identification carried out by labour inspectors. In BiH: entity Republika Srpska, the Law on Tax Procedures extends competencies to inspect undeclared work to the inspectors of the Tax Administration and of the Games of Chance Administration. In Kosovo, although the labour inspectorate has authority in relation to undeclared work, the Tax Administration also performs inspections in this area and may impose sanctions on employers for non-compliance with legal obligations. In this regard, the labour inspectorate has signed an MoU with the Tax Administration entailing collaboration, exchange of information and organization of joint visits and campaigns to tackle undeclared work.²²

This dual competence exists in several Western Balkans countries, but may entail a risk of overlap and also of employers suffering two sanctions for the same breach, imposed by different bodies (as explained below). This is certainly not desirable within the framework of the rule of law. There should be effective coordination with a view to avoiding disruption in the fight against undeclared work, bearing in mind that the labour inspectorate is a privileged body when it comes to supervising unregistered or illegal workers due to its knowledge of the world of work. As noted in some ILO Decent Work Programmes, an additional challenge in this regard might be that neither the labour inspectorate or any other inspection service has a clear mandate to detect undeclared work in the informal economy.²³

► Planning and priorities

In most Western Balkans countries, the inspectorates include actions against undeclared work in their inspection plans and campaigns, although in general there is no specific and separate plan for inspections of undeclared work. There are different types of inspections, namely scheduled or planned inspections, random inspections and inspections following a complaint or an accident at work. As in EU countries, the priorities of inspectorates in the Western Balkans apply to sectors in which undeclared work is frequent, such as tourism hotspots, hospitality, construction and seasonal work in agriculture.

²² ILO Decent Work Programme for Serbia (2019–2022); see https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-buda-pest/documents/genericdocument/wcms_676205.pdf, p.19.

²³ See individual Peer Review of Albania, section 6.3.

Data shows that random inspections conducted in peak periods during the tourist season reveal more than twice the number of undeclared workers found by regular planned or scheduled visits, and eight times the results of inspections due to complaints and/or accidents at work (Albania). Nonetheless, these random inspections are often included in the general inspection plan. In Albania, main inspection plans and campaigns are organized on the basis of a predetermined risk level assessed after a data assessment that allows the labour inspectorate to identify employers and workers to be subject to inspection, to review inspection records and to select employers suspected of having unregistered workers.

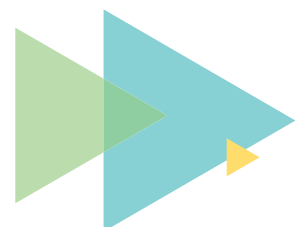
Snapshot Box 11

In Kosovo, the labour inspectorate supported its work activity in the Strategic Development Plan for the Labour Inspectorate 2017–2021 and its work plan, which focused on undeclared work. For the implementation of this work plan, campaigns were organized targeting undeclared work in collaboration with all relevant institutions, and labour inspectors were also trained and provided with a compilation of applicable legislation. Inspections were planned on the basis of previous inspection records and measures taken, so the labour inspectorate did not draw on accurate registers and databases for planning the inspections.

In North Macedonia, unannounced extraordinary inspections of risk sectors in which the largest presence of undeclared workers is presumed are planned following analysis of inspection reports and agreed coordinated inspections with other involved bodies. The inspectorate uses the information in the electronic system and accesses the data base of the Employment Agency or the Central Register in order to plan inspections more efficiently.

In BiH: entity Republika Srpska, inspections of undeclared work are planned taking into consideration high-risk sectors such as hotels and restaurants, construction or seasonal agriculture, and the inspectors carry out quick checks on the spot. These sectors are involved more often because in the past undeclared work has proved to be most prevalent here, in particular due to seasonal work.

In Serbia, regular inspections are conducted in accordance with the inspection oversight plans. These plans are annual, semi-annual, quarterly and monthly, and they are published on the labour inspectorate webpage. As in EU countries, the priorities of the labour inspectorate include high-risk sectors (tourism, hospitality, construction) and seasonal work (agriculture). Regular inspection oversight plans include the list of all employers over which inspection oversight might be conducted, and the timing of inspections.



► Staff resources

Despite the information supplied in Section 4 of this report, according to the online meeting held on 18 March 2022 with representatives of the inspectorates of the Western Balkans countries, it is almost unanimously agreed that there are insufficient inspectors. Most participants agreed on the idea that the number of inspectors is low in comparison with the number of entities subject to inspection as regards undeclared work.

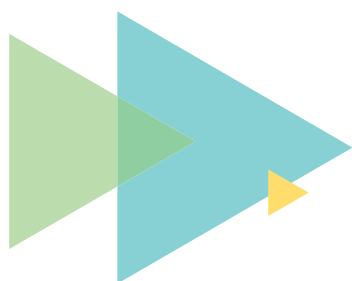
► Cooperation with other bodies and cross-border cooperation

In most Western Balkans countries, cooperation channels have been set up between the inspectorates and other public administration bodies, in particular the tax administration and the social insurance institutions responsible for collecting contributions. They are key to fighting undeclared work. Some countries have signed MoUs with other public bodies in order to tackle undeclared work more efficiently (for example, the Serbian labour inspectorate and the Tax Administration Office).

Cooperation of inspectorates with other bodies is of paramount importance in combating undeclared work. Inspectorates often cooperate by way of joint visits of labour inspectors, Tax Administration or Social Protection inspectors. Cooperation channels are also set up with the Ministry of the Interior and the police, involving joint activities that allow safer inspections and prevent resistance or interference by the employers inspected.

In Albania, the Labour Inspectorate (SLSSI) collaborates with the Tax Investigation Department within the General Directorate of Taxation, which is competent to inspect workers who are undeclared to the Social Security scheme and to collect social and health contributions.

In Montenegro, labour inspectors are usually involved in joint actions with other inspectors of the Inspection Administration (Market, Tourism, Health and Sanitary, Inspectors for Games of Chance, and so on), with the aim of tackling undeclared work with a more integrated approach. Furthermore, labour inspectors and Tax Administration inspectors often jointly look for undeclared work in specific geographical areas (certain municipalities) or in the economic activities typically involving seasonal work (construction, wood processing, tourism, and accommodation and food services). The labour inspectorate also cooperates with the Border Police Section of the Police Administration to take joint action to monitor the movement, length of stay and employment of foreigners in Montenegro. Moreover, the labour inspectorate organizes joint actions with local inspectorates, such as the utilities inspectorate, the community police or the local tourism inspectorates.



Snapshot Box 12

In Serbia, for instance, the Tax Administration Office supervises the payment of contributions to mandatory Social Insurance and forwards individual information for calculating mandatory Social Insurance contributions to the CROSO (Central Registry of the Mandatory Social Insurance database) in electronic format.²⁵ It is a relevant stakeholder as regards the labour inspectorate. In this regard, the labour inspectorate has signed a Memorandum of Cooperation with the Tax Administration Office for the exchange of information. The inspectorate also cooperates with the NES (National Employment Service) and in 2017 signed a Cooperation Agreement for exchanging data of persons found at work by labour inspectors during their inspections in order to check whether they are included in the NES records or benefit from its funds while working. The NES is seen as a key actor for preventing undeclared work by educating unemployed persons on their rights and raising awareness in general. Maintaining a system of direct and constant communication between the NES and labour inspectors would thus be extremely useful. The labour inspectorate also may potentially collaborate with the Pension and Disability Insurance Fund, although at present there is no continuous channel of communication between the two bodies. The Fund could provide information on insurance contributions and workers receiving regular pension and disability insurance payments, and could also take part in educational campaigns for the purpose of suppressing informal labour.²⁶

In North Macedonia, there is a significant connection between the labour inspectorate and civil rights agencies. This allows the exchange of information and makes it possible to concentrate inspections in concrete sectors or activities.

► Training

In North Macedonia the labour inspectorate has participated actively in projects aimed at improving its effectiveness against undeclared work (for example, the project *"Tackling Undeclared Work"* 2014–2015). Within this project, a total of 29 training events were delivered over a one-year period, covering 10 topics in order to build capacity for efficient measures and inspections of undeclared work and related issues.

In Kosovo, the ILO is currently implementing the project *"Measuring, Awareness Raising and Policy Commitment to Accelerate Action against Child Labour and Forced Labour (MAP'16)"*, which is related to undeclared work.

²⁵ Article 41 paragraph 12 of the Law on Tax Procedure and Tax Administration.

²⁶ According to the study "Establishment of labour relationships and possibilities for suppressing informal labour – legal framework, practice and recommendations for improvement", by Mario Reljanović, October 2021, p. 25ff.

► Inspection methods

Labour inspectors, in order to be more efficient in inspections dealing with undeclared work, often need to work late at night or during weekends or on holidays (BiH: entity Federation of BiH-Sarajevo Canton, Serbia, among others). They also may request the assistance of the police as a precaution and to avoid violence during workplace inspections (for example, BiH: entity Republika Srpska, Serbia). On the other hand, inspection visits to employers suspected of having unregistered workers without employment contracts are always unannounced. The ILO CEACR has reiterated in this respect that prior announcement of inspections, in particular inspections addressed to undeclared work, is contrary to Convention No. 81 on labour inspection.²⁷

It is common in the Western Balkans that labour inspectors, before carrying out inspections of the informal economy and undeclared work, check the employers' data online, identifying the workers listed in different registers (labour inspectorate registers, Tax Administration or Social Security registers). In Serbia, for instance, labour inspectors access a central register before going to a workplace and they may also obtain information from the office in case they need it on the spot. Inspectors may also instigate an inspection after receiving information from the Tax Administration or the Social Insurance body dealing with contributions. In Montenegro, inspectors may obtain information and data from the Tax Administration before an inspection takes place and may carry out the inspection provided with a list of employees.

As regards how labour inspectors organize their inspections, in Albania, for instance, working groups of inspectors carry out planned or random inspections, sometimes jointly with other inspectorates, such as the health or social security inspectorate. The labour inspectorate implements the inspection plan and, where they suspect informal labour, conduct a joint inspection with other inspectorates.

In Serbia, inspections of large companies are always carried out by a group of inspectors, not one inspector alone. If needed, several inspectors may also participate in the inspection of construction sites. In some cases, inspectors are accompanied by the police, and joint inspections with other inspectorates are organized, namely with the Tourism Inspectorate for the seasonal tourism activities. Joint inspections are also launched to investigate certain sectors with the Sanitary Inspectorate.

In BiH: entity Republika Srpska, labour inspectors use checklists for inspections of undeclared work to assist them in applying the right legislation. In Serbia, labour inspectors use checklists in regular inspections to make a risk assessment.²⁸

²⁷ Source: Observation (CEACR) - adopted 2020, published 109th ILC session (2021), https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0:NO:13100:P13100_COMMENT_ID:4058691.

²⁸ According to the study "Establishment of labour relationship and possibilities for suppressing informal labour – legal framework, practice and recommendations for improvement" by Mario Reljanović, October 2021, p. 29.

Snapshot Box 13

Labour inspectors can check electronically on the spot whether a worker identified during an inspection is or is not registered with Social Insurance (Albania, North Macedonia and BiH: entity Republika Srpska). In other countries, however, inspectors cannot access information electronically on the spot (BiH: entity Federation of BiH-Sarajevo Canton), although in some cases new legislative drafts are in preparation to make improvements in this respect (Kosovo).

As a rule, the inspectorates of the Western Balkans do not have specialized units that deal with informal labour. However, there are countries in which a special working group or committee has been set up. This is the case in Serbia, where a Working Group for Combating Informal (Undeclared) Work has been set up and is led by the Labour Inspectorate. The Working Group is composed of representatives of the Labour Inspectorate, the Tax Administration, the Market Inspectorate and the Tourism Inspectorate, the Sports Inspectorate and the inspection services of the Ministry of Construction, Transport and Infrastructure. Occasionally, other inspectorates take part in inspections organized by the Working Group (such as the Health Inspectorate, the Social Protection Inspectorate, the Ministry of the Interior or the police). The Working Group organizes coordinated inspections in different industries with other inspectorates, exchanges information and cooperates with them. It is also the forum for sharing best practices and experiences, assess training needs and ensure that the law is being applied in a uniform and consistent way to all inspected entities, avoiding overlaps and unnecessary duplication of inspections. The Working Group prepares an Annual Work Programme and implements it through semi-annual, quarterly and, when appropriate, monthly action plans. It uses indicators to measure the achievement of objectives over a given period, assigns specific responsibilities to the individual Group members, decides on actions and forms of cooperation, as well as scheduling and resources for the implementation and achievement of results. The Labour Inspectorate regularly reports to a higher administrative instance (Coordination Commission) on the activities of the Working Group.

► Enforcement and formal action against undeclared work

Labour inspectorates in the Western Balkans habitually make use of an array of measures, preventive, repressive and corrective. The supervision of undeclared work by labour inspectors is primarily corrective or repressive, but preventive measures to inform employers about legislative provisions and awareness-raising campaigns are also in common use. In fact, in some countries, in addition to regular inspections planned to supervise undeclared work, the labour inspectorate also launches awareness-raising campaigns in the media, focusing on the prevention of undeclared work. To this end, the labour inspectorate collaborates with other authorities or stakeholders and also with the trade unions and other inspectorates (in BiH: entity Federation of BiH-Sarajevo Canton, trade and tourism inspectors).

As for corrective measures, in some countries inspectors may take alternative corrective measures, such as orders issued to employers to conclude labour contracts with employees within a certain deadline (Serbia). Labour inspectors in Kosovo take a similar approach and give businesses a deadline by which they are supposed to formalize employment contracts and pay social contributions. This applies to companies that are inspected for the first time or have no record of undeclared work violations in the past. However, businesses are fined if they have prior violations or fail to comply with a deadline given by the inspector to register workers. In summary, labour inspectors in Kosovo do not fine businesses straightaway.²⁹ This is not the case in BiH: entity Republika Srpska, where inspectors directly impose a fine, by means of a misdemeanour proceeding, on businesses in which undeclared workers are found. In Montenegro, when labour inspectors find during their inspections undeclared workers working without labour contracts, they fine the employer. But if workers are found to be performing work with a labour contract, but without social insurance, inspectors issue a warning instead of a fine (and do not impose a fine if the employer corrects the situation).

In relation to repressive measures, labour inspectors in the Western Balkans may propose or impose financial penalties on an employer's unlawful actions and may trigger a misdemeanour procedure, a criminal procedure (in most countries) or a civil (labour) litigation procedure on behalf of the informal worker.

In Montenegro, labour inspectors may impose a fine on the spot or initiate a misdemeanour proceeding. However, according to reports, the employer has eight days to register workers with the social security system. This provision means, in practical terms, that the deterrent effect of the inspection action diminishes because the employer has a deadline within which to "regularize" workers if labour inspectors visit the workplace and identify non-declared workers.³⁰ This legal possibility may impair the effectiveness of inspections and thwart the dissuasive effect of sanctions. Where appropriate, inspectors may also suspend the employer's activity, although this measure is not often taken in practice because the worker's constitutional right to work might be at stake.

In Albania, inspectors may impose a direct penalty on an employer on a case-by-case basis, taking into consideration a given employee's starting date at work. Employers are obliged immediately to declare a worker to the social insurance authority, which is done electronically. Inspectors may declare the suspension from work of undeclared workers, but may give the employer a deadline of 24 hours to register the worker and conclude an employment contract. If the employer does not register the worker within that deadline, the inspector fines the employer with a penalty ranging from 10 to 50 per cent of the amount of the minimum wage. The fine is higher if the unregistered worker was found to have been working without social insurance and employment contract for a long time. The amounts of such fines are calculated according to a formula that takes into account a number of factors and coefficients. If the business registers the worker within 24 hours, it is not sanctioned (provided that it does not have similar prior violations), but if it fails to do so or has a prior record the labour inspector issues a fine straightaway.

²⁹ According to article 5.5.b) of Law 2002/9 "On the Labour Inspectorate of Kosovo.

³⁰ In accordance to the ILO report "Rapid assessment of the labour inspection system in Montenegro"; ILO, UN Eco Building Stanka Dragojevic b.b. Podgorica; para 38-39.

In North Macedonia, labour inspectors may order employers to conclude an employment contract with undeclared workers and, in parallel, impose different fines depending on the size of the company (for example, €200 for small enterprises). Additionally, employers found in breach are not permitted to cut their workforce for the next three months of operations. It is not a matter of how long the worker has been working without being registered with the social insurance authority, and at any rate inspectors will impose a fine with a deadline to regularize the worker. If the employer does not correct the situation, inspectors will impose a second fine. Finally, if the employer commits a second breach within one year, inspectors may suspend the employer's activities for 15 to 30 days.

Snapshot Box 14

The law in Serbia does not allow employers to take advantage of deadlines – they are obliged to register a worker the day before they start working. However, the peer review team found that enforcement in Serbia suffers from certain weaknesses. For example, Serbian labour inspectors do not impose sanctions, but only initiate a legal sanction proceeding before the competent court.

Pursuant to the *Labour Inspectorate's Instruction on the conduct of labour inspectors during inspections on labour relations*, an inspector who finds a person working without social insurance and without an employment contract orders the employer to register that worker with the Social Security body and to sign a contract for an unlimited period with the worker, beginning from the date both parties agree was the date the worker started working or, in case of disagreement, no later than the date the person has been found working.³¹

In these cases, the inspectors file a motion to initiate a misdemeanour proceeding with the relevant magistrates' court as the first instance body. The magistrate may choose to issue a warning instead of imposing a fine for a misdemeanour, provided that there are mitigating circumstances, the breach is not repeated or the employer has corrected the irregularity before the final decision is taken. On the other hand, where multiple informal workers are found in the same enterprise, the common practice of Serbian inspectors is to initiate only one misdemeanour procedure against the employer. The court considers the offence as a mass and continuous practice of violating the law, which has a bearing on the amount of the fine and may even render the violation profitable for the employer, diminishing the deterrent effect of sanctions.³²

Therefore, the team recommended that inspectors be empowered to impose sanctions directly instead of initiating lengthy and expensive procedures, which may curb the effectiveness of labour inspection. In this regard, a stricter sanctioning policy and strengthening inspectors' sanction powers could improve things.³³

31 Within the meaning of Article 273 (1.1), (2) and (3) of the Labour Code and a motion to initiate a misdemeanour proceeding against the employer pursuant to Article 40 (1), (2), (3) and (9), as well as Articles 12 and 39 (2) of the Law on Central Mandatory Social Insurance Registry.

32 According to the study "Establishment of labour relationship and possibilities for suppressing informal labour – legal framework, practice and recommendations for improvement", by Mario Reljanović, October 2021, pp. 43–44.

33 The peer review team for Serbia drew attention to the fact that inspectors do not have the right to impose sanctions.

In other countries, such as BiH: entity Federation of BiH-Sarajevo Canton, inspectors issue a motion to initiate a misdemeanour proceeding, although they cannot prohibit the company from working. It is also worth mentioning that labour inspectors may issue sanctions not only to the employer, but also to the undeclared worker.

In BiH: entity Republika Srpska, all entities found to be operating without the relevant permits are immediately prohibited from continuing economic activity and fined. Furthermore, if workers without valid employment contracts or who are not registered with the Single Taxpayer Register are found on the premises during an inspection, their employer is fined and prohibited from operating for 15 days, provided they pay the fine and register the workers within 72 hours. Inspectors in such cases, as a rule, impose a fine by issuing a misdemeanour order sanctioning the employer with the lowest prescribed fine (fines for this offense are prescribed within the range of 2,000 to 7,000 BAM for the employer as an individual or 5,000 to 20,000 BAM for the employer as a legal entity). It is important to point out that penalties for the same violation are also prescribed by the Law on Tax Procedure, which are in much larger amounts and imposed primarily by inspectors of the Tax Administration and other Inspection Sectors of the Inspectorate of the Republika Srpska. This means in fact that a business might be sanctioned by two different inspectorates for the same offence if there is not adequate coordination between them.

► Awareness-raising campaigns

There are countries in which the labour inspectorate carries out seasonal campaigns in the media and participates in interviews, raising awareness of the importance of registering workers with the social security authority. For instance, in Serbia, the Law on Inspection Oversight (article 13) envisages that labour inspectorate activities should include educating and informing employers of legislative texts and inspection oversight plans and checklists, along with expert and advisory support in inspection visits. These activities are especially important for small companies without sufficient experience in employment and adequate legal or human resource services. In Albania, the labour inspectorate also organizes awareness-raising campaigns and produces leaflets with information on this topic and on labour inspection tasks.

In North Macedonia, campaigns are also implemented using flyers to inform risk groups among which undeclared workers are found most frequently and their rights violated. The labour inspectors are also involved in awareness-raising campaigns related to human trafficking, including training organized within the framework of the National Strategy for Combating Human Trafficking.

34 According to the study “Establishment of labour relationship and possibilities for suppressing informal labour – legal framework, practice and recommendations for improvement”, by Mario Reljanović, October 2021, p. 28.

7. Findings and recommendations

The ESAP 2 labour inspection peer review teams made various recommendations according to their findings during the review visits. These recommendations were aimed at improving labour inspection efficiency, in particular in the area of undeclared work. The teams also reached conclusions with regard to particular labour inspectorates, their strengths and weaknesses.

According to these conclusions, inspectorates in the Western Balkans generally operate well. Moreover, they are well organized and fulfil their mission and objectives adequately, even though they face a shortage of inspectors and at the same time cover a large territory and a large number of entities or employers subject to inspection. However, some shortcomings were identified in each of the reviewed countries and the teams encouraged inspectorates to take a range of measures to improve their functioning. These measures are presented in Table 4. In what follows, we address some of the main conclusions.

7.1 Legal framework

In several cases, the review teams encouraged the updating and reform of legislation on labour inspection, including amendments on certain matters such as the basic principles of organization of labour inspection, recruitment processes, inspectors' rights and obligations, employment status and professional categories.

Legislative amendments were also suggested in relation to other areas, such as providing full protection for certain vulnerable workers (for example, pregnant women during Covid-19) or registration of full-time work in order to facilitate labour inspectors' supervision of the law. The need for legal provisions on the mandatory registration of the start and end of working time was repeatedly recommended with a view to providing labour inspectors with appropriate legal tools to effectively check the legal limits on working time.

Another area of concern was the existence in certain cases of different legislative levels (for example, the Federal and Cantonal levels in the Federation of BiH, BiH). This creates a sort of dualism in the legislative framework and puts an extra burden on enterprises and so on that decide to do business in other Cantons, making labour inspection more difficult.

The competences of labour inspectors in occupational safety and health, in particular on matters related to occupational injuries, are seen as unclearly or incompletely regulated. In some cases, this is because labour inspectors' competences are partially defined by different laws, namely, the Law on Occupational Safety and Health or the Law on Labour Inspection.

In a particular case (North Macedonia), the team saw a need for further legislative steps towards rationalizing the legislative framework by regrouping the different provisions in the corresponding laws.

7.2 Staff resources and working conditions

One of the most common weaknesses detected by the peer review teams is the lack of labour inspectors. Necessarily this makes it difficult for them to cover the entire territory and all the branches within their legal scope. Therefore, further recruitment of labour inspectors is necessary, not to mention filling existing vacancies, which in some cases are numerous. In this regard, recommendations to increase staff should be addressed to those countries in which the ratio of inspectors per 10,000 workers is lower than the EU average.

Several proposals were made regarding labour inspectors' working conditions, such as upgrading their status and working conditions. The teams recommended in some cases enhancing labour inspectors' status and improving their wages, including reimbursement of expenses, where appropriate, and compensation for high-risk work. According to some of the peer reviews, because an inspector's job involves a certain level of risk, compensation should be considered. Furthermore, their wages should be reviewed to take into account such tasks as accessing difficult terrains, construction sites and production sites. This would boost labour inspectors' role in protecting workers and enforcing legislation.

Some concerns were also raised in relation to inspectors' safety and ways of protecting themselves against violence during inspections.

The teams also drew attention to the issue of health insurance for inspectors. In particular since the pandemic insurance has become a more urgent issue.

7.3 Recruitment and professional careers

The teams deemed that the appointment of inspectors for fixed, albeit renewable periods is not in line with the employment stability that labour inspectors need, not to mention the imperative that they be independent of changes of government and improper external influences, in accordance with ILO Convention No. 81. This opinion refers specifically to the Montenegrin labour inspectorate, the only case in the Western Balkans countries where this situation prevails. Certainly, the review team drew attention to the temporary appointment of inspectors in Montenegro, which is judged to be in direct violation of Article 6 of Convention No. 81 on employment stability.

This international provision stipulates that "inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences". Therefore,

appointing inspectors for a limited period makes them uncertain about their legal status and stability, as they are subject to reappointment procedures that may jeopardize the regularity of their work and their autonomy. The case is being followed-up by ILO CEACR, which in 2019 requested that Montenegro provide further information on the circumstances under which labour inspectors are not reappointed following the expiration of their term.

On other hand, the teams advised in several cases (for example, Albania, Sarajevo Canton) that the professional promotion system for inspectors be reviewed and strengthened and/or that a job grading scale be introduced, understanding career progress as an incentive to improve work performance. Additionally, a system for grading inspection cases according to their complexity was suggested. It would make it possible to classify inspectors by category and assign them to cases according to their experience and preparation.

7.4 Training

The peer review teams advocated lifelong learning for labour inspectors and mentoring systems so that more experienced labour Inspectors may work side-by-side with new recruits and thus help them attain the level of professionalism needed to conduct labour inspections.

Furthermore, the teams proposed that inspectorates develop a detailed annual training plan. The training system for labour inspectors at the regional level should be either reactivated (Albania) or reinforced.

The peer review team for Serbia observed that, because the issues addressed by labour inspectors also affect the quality of the labour market not only within the economy, but also in the region and beyond, it would be a good idea to establish a training centre for labour inspectors at regional level. This suggestion was welcomed at the roundtable discussion between the representatives of the inspectorates of Albania, BiH: entity Republika Srpska and the host Serbia.

7.5 Non-staff resources

The peer review teams in one case (BiH: entity Republika Srpska) proposed the concentration and centralization of local inspectorates into the central inspectorate. However, the most repeated concern was the necessary upgrading of the equipment used by inspectors, such as computers, scanners and printers, and the vehicle fleet, which would improve their performance.

It was also suggested to change the rules on reimbursement of expenses incurred by inspectors, in particular fuel expenses arising from the use of official vehicles, with a view to suppressing reimbursement thresholds, which have proved to be a serious limitation on inspection action.

► 7.6 Information management and database

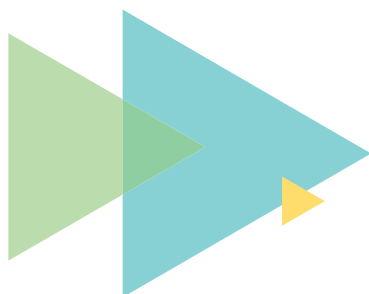
A particular priority the teams identified was the need to improve the data analysis and management system so that it enables the inputs/outputs required to better organize and plan inspections. Improving the existing IT systems to make it possible to set up real-time links with other public bodies (for example, businesses and workers registries, Social Security and Tax Administration registries and databases) and retrieve data on wages, contributions and identity will enable the inspectorates to handle information relevant for the performance of their tasks and for planning inspections. Exchanging data with other public bodies before, after or during inspection visits would not only facilitate the tasks of labour inspectors, but also be a very useful tool for planning inspections based on risk assessment.

It was also proposed that labour inspection websites include an application or a form through which workers whose labour rights have been violated can easily report violations. This practice would provide transparency and trigger action by inspectors. The introduction of an e-inspector system in all inspectorates will automate and unify how inspection procedures are conducted and facilitate inspectors' work.

► 7.7 Formal enforcement and inspection procedures

In some cases, the peer review found it inadvisable for inspectors to issue an early warning in areas such as undeclared work, as this type of breach is considered critical (North Macedonia). By contrast, when it comes to actions taken by the inspector at the request of a party in cases of termination of employment, payment of wages and other income and cash benefits paid by the employer, notice of an inspection provided to the employer to a great extent facilitates the procedure. In these cases, issuing a previous notice instead of a direct expeditious order (stop working, fine) would allow the employer to act beforehand in accordance with the law and would also leave room for a more preventive, not only repressive action.

The teams also found that in some cases, where violations are detected, labour inspectors can only report them to the competent court or to the prosecution authority, but have no power to impose sanctions. In fact, according to the ILO questionnaires, inspectors in some countries have competence to impose on-the-spot fines (*procès-verbal*), although they may be appealed by employers. It should be noted in this regard that the effectiveness of the enforcement system relies not only on the power to impose penalties, but also on the promptness and proper functioning of the sanctioning bodies, whatever they are. The long duration and slowness of misdemeanour proceedings initiated by labour inspectors may curb expeditious action and render inspections inefficient.



► 7.8 Cooperation

Cooperation in the Western Balkans, generally speaking, is fairly successful. Some countries have signed MoUs with other public institutions, although there is room for further improvement, regarding the exchange of information and data.

By contrast, there is no cross-border cooperation between the inspectorates of the Western Balkans countries. Such cooperation would be particularly useful in relation to undeclared work and illegal employment. In this regard, the review team for Serbia concluded that, given its geographical position and well-defined system and operating procedures, its labour inspectorate could, in a sense, take the lead in coordinating the activities of all inspectorates across the Western Balkans. As a matter of fact, the workforce fluctuations throughout the region would require a shared database and platform for information exchange.

► 7.9 Techniques of inspection

The teams also called for the development and use of checklists, thus facilitating inspectors' operations and procedures, helping them undertake their tasks in a more efficient manner. During inspection visits, the teams witnessed the inspection process conducted by labour inspectors and noted that inspections were often classified into labour relations inspections, occupational safety and health inspections and/or integrated inspections, which were carried out using different checklists. In some of these cases, the team suggested creating a short checklist used exclusively to verify the employment status of the workers found on company premises.

Another area of concern was the prior notice that inspectors forward to employers before inspection visit. Unannounced inspections should be the rule, however, if we follow the ILO CEACR, which has reiterated that prior announcement of inspections, in particular in relation to undeclared work, is contrary to Convention No. 81 on labour inspection.³⁵ However, the teams underlined, as mentioned, that in some cases (for example, actions at the request of a party concerning termination of employment, payment of wages and other incomes) prior notice of inspection might greatly facilitate the inspection procedure, providing the employer the opportunity to remedy matters in accordance with the law before the inspection (team for North Macedonia).

► 7.10 Awareness-raising

All inspectorates carry out awareness-raising campaigns in one way or another, making use of the media or taking advantage of interviews, working groups, meetings or conferences. Leaflets and other material are also distributed with the intention of disseminating relevant information or sensitizing employers and workers on compliance with legislation.

³⁵ Source: Observation (CEACR), adopted 2020, published 109th ILC session (2021), https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::N O:13100:P13100_COMMENT_ID:4058691.

One of the teams proposed publishing on the Inspectorate's home page examples of good practices, but also of irresponsible employers (such as those the inspectors find to have "illegal" workers or who have not put in place the appropriate OSH measures). Social media is seen as a very effective way for disseminating information and raising awareness.

The teams have encouraged the labour inspectorate to continue increasing efforts in the area of occupational safety and health by promoting prevention culture, compliant companies and good practices through participation in panels and roundtables involving employers, trade unions and other partners and relevant stakeholders, as well as through media campaigns and promotion activities.

► 7.11 Working with social partners

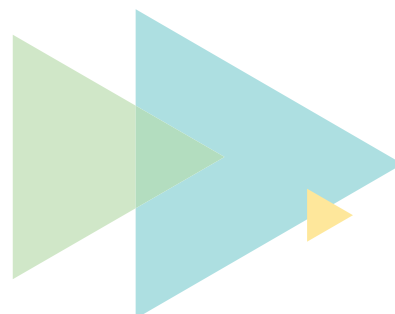
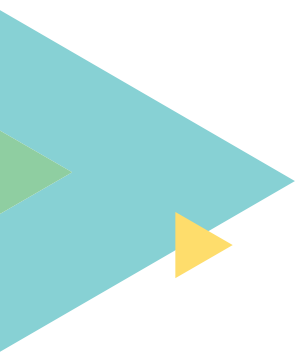
Some of the peer review teams outlined the need to promote social dialogue and trade unions and to adopt legislative amendments (for example, setting parameters for determining trade union representation) geared towards strengthening workers' rights by creating the appropriate environment for collective agreements, with more favourable labour rights than those provided by law (for example, Albania).

The teams also suggested promoting and improving the role and operation of tripartite bodies (for example, the National Safety Council in Kosovo) as key actors in the protection of workers' occupational safety and health.

► 7.12 Planning

The peer review teams found that the planning, organization and conducting of inspections by inspectorates generally functioned pretty well, as did the data analysis and information management relevant for planning, including links with other competent bodies for exchanging information.

However, the teams identified several shortcomings regarding the risk assessment methodology used in planning inspections and proposed that inspectorates should plan inspections of selected high-risk employers, those with records of recurrent non-compliance. This approach would ensure proper use and streamlining of the capacities of inspection services and thus increase their efficiency. Some countries have significantly developed or are in the course of developing this risk assessment approach (Albania).



► 7.13 Inspection of accidents at work and occupational diseases

According to the answers to the ILO questionnaire, the main problems inspectorates face at present are insufficient coordination between different competent bodies and the vague definition and low level of reporting of occupational accidents and diseases.

In this regard, the review teams encouraged labour inspectorates to harmonize the records of different competent bodies on occupational diseases (for example, in BiH: entity Republika Srpska the Labour Inspectorate and the Occupational Medicine Institute).

► 7.14 Inspection measures to fight undeclared work

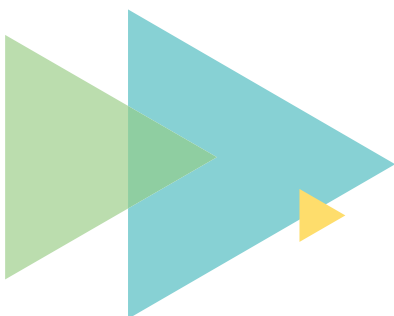
The peer review teams listed the following issues and recommendations:

- It is positive that inspectorates have the authority to supervise the mandatory registration of workers with the Social Security system and undeclared work in general.
- The teams supported interaction between labour inspection information systems and databases from other institutional bodies, in particular the Tax Administration and the Social Security institutions.
- In this regard, the importance of an e-inspector system allowing inspectors to access other institutions' databases was underlined as it would enable inspectors to check informal work during their inspections and formalize it.
- The e-inspector system would undoubtedly be a valuable tool for supervising workers' status and checking on the spot whether a worker is registered for compulsory social insurance or holds a valid work permit in case of a foreign worker.
- In the absence of this technology-enhanced and e-formalization capacity inspection procedures are delayed and transitions from informal to formal employment are lengthened.
- It was pointed out that inspection sanctions on undeclared work should not be confined to a warning, but rather unregistered activities should be assessed as critical and subject to punitive action.
- In some cases, the teams suggested empowering other inspection sections (within the general Inspection Administration bodies, in countries where they exist) to supervise the employment status of workers found in premises being inspected and thus reinforce the fight against undeclared work. Providing all inspection sections with powers to check the mandatory registration of workers with the Social Insurance system is seen as an initiative that would contribute hugely to improving the efficiency of inspections and better tackling undeclared work.
- It was recommended to adopt a methodology for risk assessment so as to plan inspections of high-risk workplaces better (those with a record of recurrent non-compliance)

- ▶ Improving and promoting social dialogue would strengthen workers' rights, thus creating a better working environment.
- ▶ It was suggested to publish examples of good practice but also of irresponsible employers (such as those the inspectors find to have "illegal" workers) on the inspectorate's home page.
- ▶ In some cases, the teams advised the creation of brief check-lists to be used exclusively to verify the employment status of workers found on company premises.

A few other considerations and recommendations might be drawn from the data supplied in the ILO questionnaires and a careful analysis of all the information contained in this report:

- ▶ There is no cross-border cooperation between the inspectorates of the Western Balkans countries. This cooperation would be particularly useful in the area of undeclared work and illegal employment.
- ▶ Providing a deadline for employers to register workers with the social security institution, in practical terms, diminishes the deterrent effect of the inspection fades because the employer has a deadline to "regularize" the worker after the inspection visit. This legal possibility may thwart the dissuasive effect of sanctions.
- ▶ Where undeclared workers are found during an inspection, a balance should be struck between suspending the employer's activity and the worker's constitutional right to work.
- ▶ The initiation of lengthy administrative or judicial proceedings by labour inspectors should be replaced by more expeditious sanction proceedings in order to deter employers effectively from employing workers without registering them with the social insurance institution.
- ▶ Measures to combat undeclared work should not only be deterrent (sanctions), thus increasing the costs of non-compliance ("sticks"), but also incentivizing, thus emphasizing making declared work more beneficial and easier ("carrots").
- ▶ A holistic and integrated labour inspection approach, as it works at present in the inspectorates of the Western Balkans, would be more effective in tackling undeclared work than a divided system. Therefore, assigning competences for supervision of undeclared work to other inspectorates would require strong coordination and cooperation mechanisms.
- ▶ The number of inspectors and the ratio of inspectors per 10,000 workers of inspectorates in the Western Balkans should be assessed in light of the estimated sizes of the informal economy or levels of undeclared work in each country. In this regard, increasing the number of labour inspectors is reasonable insofar as informal economy rates in the Western Balkans are high in comparison with the EU average.



7.15 Findings and recommendations as formulated by the peer review teams

The detailed findings, recommendations and conclusions are consolidated and classified by subjects and by countries in Table 4.

► Table 4

Recommendations of the ESAP peer review teams by country

ALBANIA

A) Legislative framework

- The Law on Inspection should be reviewed in order to stipulate the basic principles of organization, management, monitoring and coordination of inspection services, as well as the inspector recruitment process, inspectors' rights and obligations (remuneration system, professional development and training system), rights and obligations of employers during inspections, inspection procedure and relationship between inspection services and competent bodies.
- Provisions for full protection of pregnant women during the Covid-19 pandemic are recommended, freeing them from the obligation to physically be present at the workplace, in that way protecting their health as a special category of employee.
- A provision for the registration of full-time work needs to be included in the law in order to legally regulate regular record-keeping on full-time work, differentiating between the start and end time of working hours. This would allow the inspection body to determine effective working hours, overtime hours and hours worked during a public holiday.
- The Law on Inspection should stipulate the categorization of inspectors by work experience, so that they can be assigned to perform more complex inspections in accordance with their level of knowledge and work experience. Also, the introduction of a job grading system would facilitate career progress within the inspection service, which is one way of boosting the capacity of the inspection body. In this way inspection service staff could be promoted, which would serve as an additional incentive for them to perform their duties more efficiently, thus avoiding the problem of having to hire inexperienced inspectors to perform inspections.
- Given that an inspector's job involves an anticipated level of risk, an extra payment should be provided to compensate.

B) Cooperation

C) Data analysis and information management

D) Labour inspectors' status and powers

E) Staff, human resources

- Inspectorate capacities should be improved by increasing the number of inspectors and restoring the role of labour controller. These changes would lead to more efficient operations and timely performance of work tasks in the field of inspection.

F) Recruitment

G) Training of inspectors

- Provision of mentoring for newly hired inspectors by more experienced ones during inspections needs to be considered. This would train and empower the former to carry out independent inspections more expeditiously.
- The training system for labour inspectors at the regional level should be reactivated.

H) Non-staff resources

- ▶ To ensure the most efficient performance of inspections, it is recommended that each inspector be allowed to use an official passenger car.
- ▶ Technical equipment used by inspectors should be improved with computers, scanners and printers, which would positively affect their performance.

I) Access to databases, information and e-inspector system

- ▶ The e-inspector system should be further upgraded, so that it generates data on legal entities that will be subject to inspections. The generation of such data make possible better inspection planning, and consequently better use of resources by the inspection service.

J) Inspection techniques**K) Planning****L) Risk assessment****M) Enforcement action****N) Social partners**

- ▶ The promotion of trade unions would create the preconditions for the adoption of a General Collective Agreement, which would stipulate additional and more favourable labour rights than those provided by law. Collective agreements always aim to strengthen workers' rights, thus creating better working conditions.
- ▶ Conditions should be established for developing social dialogue and improving trade union organizations. Namely, the Law on Labour Relations needs to be reviewed in order to provide measurable parameters in determining trade union representation.

Final conclusions**▶ Conclusion**

The State Labour Inspectorate in Albania is well organized and, as far as digitization of inspection procedures is concerned, at a much more advanced stage than other Western Balkan countries. With regard to the legal framework, however, the recommendations will help it to clearly define inspectors' status, rights and obligations. Besides that, improvements in legislation will allow for more efficient inspection procedures. This will also enable greater protection and promotion of workers' rights.



Recommendations of the ESAP peer review teams by country

A) Legislative framework

- ▶ Establishing different levels or grades of inspectors based on their work experience would make it easier to assign them to cases in accordance with their complexity.
- ▶ An internal promotion system for inspectors should be introduced, which would help to strengthen the capacities of the inspectorate. Career progress would be an added incentive to improve work performance and, at the same time, prevent the appointment of people without sufficient inspection experience to positions within the service. In parallel, regulation of criteria for classifying cases based on their degree of complexity (complexity indices from one to five) would be advisable.
- ▶ The provisions of the Canton and of the Federation of Bosnia and Herzegovina on inspection services make it difficult to organize and conduct inspections. This creates a kind of dualism in terms of legislative framework and places an extra burden on enterprises that may want to do business in other Cantons.

B) Cooperation

C) Data analysis and information management

- ▶ Improve the data analysis system so that it can provide the Chief Inspector with the inputs needed to better organize and direct the work of inspectors when planning inspections.

D) Labour inspectors' status and powers

E) Staff, human resources

- ▶ Hiring more inspectors to improve staffing capacities, given that the number presently available to the Sarajevo Canton Inspectorate is not sufficient to audit all legal entities and the lack of constant monitoring gives rise to non-compliance.

F) Recruitment

G) Training of inspectors

- ▶ Adopt a Training Plan and procedures for its implementation to ensure continuous professional development of inspectors. Introduce a mentoring system, which would entail that more experienced labour inspectors work side by side with new recruits and thus help them attain the level of professionalism needed to conduct inspections independently

H) Non-staff resources

- ▶ Upgrade the equipment used by the inspectors, such as computers, scanners and printers, and hence help improve their performance; upgrade the vehicle fleet of the inspection service.

I) Access to databases, information and e-inspector system

- ▶ Improve the existing LOTUS system by establishing real-time links with the Business Registry, Worker Registry and the Tax Administration databases related to payment of salaries, contributions and salary allowances and to employment status. In the cases in which a person found on the premises during an inspection claims to be employed "illegally", those types of links would enable inspectors immediately to obtain relevant data from the competent authority and thus determine the facts and take the necessary action much faster. Having no access to data causes unnecessary delays as, at the moment, inspectors have to spend more time collecting them.

J) Techniques of inspection**K) Planning**

- Provide the people in charge of planning with access to the databases on registered legal entities so that, in developing Monthly Action Plans, they could better organize the work of inspectors and thus make inspections more effective.

L) Risk assessment

- Adopt a methodology for risk assessment of legal entities, so as to plan inspections of the high-risk ones, namely those with recurrent non-compliance. This approach would ensure proper use and streamlining of the capacities of inspection services and thus increase their efficiency and effectiveness.

M) Enforcement action**N) Social partners****Final conclusions****► Conclusion**

Given the complexity of the system of governance and the dualism of Federal and Cantonal regulations, as well as the insufficient number of inspectors, the efforts of the Labour Inspectorate to cover the entire Sarajevo Canton area and visit as many legal entities as possible to ensure greater compliance are certainly commendable. Implementation of the recommendations related to legislation and improvement of the organizational and technical side of inspections and other activities would further strengthen the status of the Inspectorate as a protector of workers' rights and get to grips with the legal entities who do not comply with valid regulations.

Recommendations of the ESAP peer review teams by country**A) Legislative framework**

- A procedure should be initiated to adopt the Law on Inspection Supervision, which should stipulate the basic principles of inspection supervision, organization and management of inspection services, monitoring, control and coordination of inspection services work, inspectors' status and hiring arrangements, inspectors' licenses, inspectors' rights and obligations (a compensation system for inspectors, a system for inspectors' professional development and training), rights and obligations of the supervised entity during the inspection, inspection procedures, special actions to be taken during inspections, relationship between inspection services and competent bodies, as well as law enforcement.
- A provision on the registration of full-time work should be included in the law, in other words, regular record-keeping on full-time work, specifying the beginning and end of working hours. This would avoid the possibility of abuses by employers in determining effective working hours, and thus allow the inspection body to determine effective working hours, as well as overtime hours and hours spent at work on public holidays.
- The health insurance issue for inspectors should be addressed as soon as possible, given that they work in high-risk jobs, alongside the establishment of compensation to make up for the risk faced at workplaces.
- Inspectors' competencies should be defined – their duties and responsibilities as officials should be specified. The goals and objectives of the work to be performed need to be clear, precise and measurable, with a set timeline for implementation.

- ▶ There is no special law in the Republic of Kosovo that regulates labour inspectors' employment status as administrative clerks with public authority (required work experience; the categories of inspectors are not specially regulated, so that more complex cases can be handled by more experienced inspectors).
- ▶ A bylaw should be adopted to define the parameters and criteria for the complexity of inspection cases (complexity coefficients from 1 to 5).
- ▶ The operation of the National Safety Council should be improved and regulated, as one of the main actors in the field of protection of occupational safety and health for workers.

B) Cooperation

C) Data analysis and information management

- ▶ The possibility of developing a system for analytical data processing should be considered. This would provide the Chief Inspector with a more efficient way of accessing the necessary data, and thus better manage the work of inspectors in the field of supervision planning.
- ▶ The website should include an application or form with which citizens whose labour rights have been violated can report violations to ensure greater transparency in terms of procedure and faster and more efficient action by inspectors.

D) Labour inspector's status and powers

- ▶ As a labour inspector's job is very difficult, because they have to access terrains, construction sites, production facilities and so on, we consider that a review of the salary range of this category of employees is necessary, including compensation for task difficulty.

E) Staff, human resources

- ▶ Inspectorate capacity building is recommended in order to increase the number of inspectors to ensure more efficient operations and timely performance of work tasks in the inspection department.

F) Recruitment

G) Training of inspectors

- ▶ Capacity building and training of existing inspectors should be facilitated by developing an annual plan for the delivery of training actions and how to implement them.
- ▶ The possibility of appointing a mentor from among more experienced inspectors to accompany newly hired inspectors in the field should be considered. It would equip new inspectors more quickly to conduct independent inspections.
- ▶ Given that the issues addressed by labour inspectors also affect the quality of the labour market not only within the country, but also in the region and beyond, the establishment of a regional training centre for labour inspectors is considered necessary.

H) Non-staff resources

- ▶ Technical equipment used by inspectors should be upgraded in order to improve efficiency.
- ▶ It is recommended that the labour inspectorate should have more support in terms of both logistics and infrastructure, but also human resource development, in order to motivate labour inspectors to successfully fulfil their mission.

I) Access to databases, information and e-inspector system

- It is recommended that the inspectorate be institutionally linked to the database of other institutions – in other words, the e-inspector system should be introduced. The introduction of the e-inspector system will automate and unify how inspection procedures are conducted and facilitate the work of inspectors.
- Inspectors should be enabled to implement the e-inspector system during inspections to formalize informal work, to ascertain whether the relevant person is registered with the compulsory social insurance institutions or is working “illegally”, to access the database of competent institutions in order to determine the status of the person found. The inability of inspectors to ascertain this on site/in the field results in inefficient procedures, and thus leads to the extension of deadlines for the transition of employees from informal to formal employment.

J) Inspection techniques

- Unified checklists should be developed and introduced for all inspectors in accordance with the law, thus contributing to how inspectors operate and conduct their inspections, as well as how they fulfil their educational role.

K) Planning**L) Risk assessment**

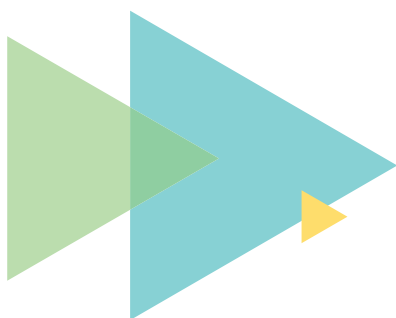
- A risk assessment methodology should be adopted, determining the risks facing legal entities and enabling the planning of inspections in those entities where the highest risk has been identified and which the most common violators of legal provisions. With this approach, inspection service capacities would be properly utilized and focused, thus increasing their efficiency and effectiveness.

M) Enforcement action**N) Social partners**

- Dialogue between social partners should be improved, which would result in the adoption of a General Collective Agreement that would further regulate labour rights that may be more favourable than those provided by law. Collective agreements always aim at strengthening workers' rights, thus creating a better working climate.

Final conclusions**► Conclusion**

Despite the recommendations aimed at improving the inspection authority's performance, we believe that the State Labour Inspectorate of the Republic of Kosovo is generally functioning well, given that they face a shortage of inspectors and cover a large territory and a large number of legal entities. Implementation of the recommendations aims to help improve efficiency. The health insurance issue for inspectors, especially during the pandemic, should be addressed promptly.



Recommendations of the ESAP peer review teams by country

MONTENEGRO
Peer review performed by a team from Kosovo and Bosnia and Herzegovina: entity Federation of BiH - Canton Sarajevo

- A) Legislative framework**
- B) Cooperation**
- C) Data analysis and information**
- D) Labour inspectors' status and powers**
- E) Staff, human resources**

► While the internal rulebooks in Montenegro allow the hiring of 53 labour inspectors (37, including the Chief Inspector, for labour relations and 16 for occupational safety and health), at the moment, the service has only 43 (30 women and 13 men). Therefore, further recruitment is necessary to fill the vacant posts and thus enable the Inspectorate to conduct quality inspections efficiently.

► The classification of inspectors in Montenegro (Groups I to III, according to degree of education and work experience) is useful because it makes it possible to assign different cases (reported irregularities, requests for inspections) based on inspectors' education level and years of experience.

F) Recruitment

► The appointment of inspectors for a limited (definite) period is in direct violation of Article 6 of Convention No. 81 on the stability of employment, which regulates that "inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences". According to the host country, the Montenegro Inspection Administration has informed the ILO of the above and sought their legal position on the reappointment of inspectors.

► Appointing inspectors for a limited period makes them worry about their legal status, namely the stability of their employment. They cannot be sure that, come the next round of appointments, they will be appointed to the same position. Furthermore, from the service point of view, reappointment procedures may coincide with ongoing inspections, which would jeopardize the regular work of the Administration and possibly leave inspectors dissatisfied because the inspections have not been finished within the legally specified deadline.

G) Training of inspectors

H) Non-staff resources

► The offices of the Montenegro Inspection Administration are at different sites around Podgorica and need to be moved to a single central location to facilitate more efficient and cost-effective organization of work.

► More vehicles are needed for labour inspection, with unlimited coverage of monthly fuel costs to provide more efficient services (at present, each inspector can only claim fuel costs of up to EUR 50 a month, regardless of the number of inspections carried out). This makes their work more difficult because they have to plan their visits based on whether their travel costs will be fully covered.

► While all inspectors have laptops and internet, mobile printers and scanners are available only to some and therefore more of them should be procured to make the work of the inspectors easier.

I) Access to databases, information and e-inspector system

- Given that the Registry of Businesses is kept by the Association of Employers and the Tax Administration, the inspectors depend on them for all relevant information and, as a result, do not have daily updated data. A link should be established between these organizations to allow the inspectors to conduct inspections based on accurate and up-to-date information.

J) Inspection techniques

K) Planning

L) Risk assessment

M) Enforcement action

N) Social partners

Final conclusions

- Conclusion

Recommendations of the ESAP peer review teams by country

A) Legislative framework

- The competences of labour inspectors in the area of occupational safety and health regarding injuries at work are unclear and incomplete. This is because the competences of labour inspectors are partially identified by two laws, the Law on Safety and Health at Work and the Law on Labour Inspection.
- The Law on Labour Relations regulates the labour relations of employees in state administrative bodies, local government authorities, institutions, public enterprises, institutes, funds, organizations and other legal entities and natural persons employing workers, unless the law states otherwise. In this way, the authority of labour inspectors (labour relations) is broadly defined. Competences related to inspection of state administrative bodies and the police have been added.
- The provisions on discrimination are quite detailed. Also, the provisions on harassment at work and sexual harassment in the workplace are regulated by another law, the Law on bullying.
- Provisions on the procedure before the National Employment Service are the Law on Employment and Exercise of Unemployment Rights; legal provisions on the procedure for a single registration/deregistration of workers for the purposes of compulsory social insurance are included in the Law on the Central Registry; provisions on employment in public services and public administration are subject to the Law on Civil Servants and State Employees. Also, the provisions on gender equality in relation to advertisements for vacancies in public services are the subject of yet another law, the Law on Gender Equality and the provisions prohibiting competition are very detailed.
- On the other hand, the Law on Labour Relations contains provisions extracted from the Law on Access to Information of Public Importance and Protection of Personal Data. There are also provisions on work engagement outside full employment and on volunteer work. Also covered

are exercising the right to financial compensation of employees in case of status changes of the employer, provisions on employment of persons with disabilities and professional rehabilitation, trade union organization, provisions on strikes, provisions on the socio-economic council, and posting employees to work abroad temporarily. All these provisions should be transferred to the abovementioned regulations and other laws because they overburden the application of the Labour Code.

► The provisions of important labour law institutions (establishment of employment, employment contracts, rights, obligations and responsibilities at work) are properly laid down, and the protection of special groups of employees (pregnant women, persons with disabilities, etc.), provisions on working hours and holidays and absences, wages, changes in agreed working conditions, dismissal and disciplinary measures and penalties, termination of employment, cases of breach of duty and breach of work discipline are all in order.

► Penal measures through misdemeanour warrants also represent a good and functional solution. Multilevel penalties also work well, as do the penal measures in administrative and judicial proceedings.

B) Cooperation

C) Data analysis and information

D) Labour inspectors' status and powers

E) Staff, human resources

F) Recruitment

G) Training of inspectors

H) Non-staff resources

I) Access to databases, information and e-inspector system

J) Inspection techniques

K) Planning

L) Risk assessment

M) Enforcement action

► The team is of the opinion, regarding the actions of inspectors at unregistered entities, that it is pointless to issue a warning and, if the unregistered entity does not act, only then issue an order to eliminate irregularities. This suggestion is based on the fact that engaging in unregistered activities in accordance with the risk assessment methodology in line with the Law on Inspection Supervision can only be assessed as critical. This means that there is no place for prevention (in the form of a warning) in inspectors' repertoire in this case and only repressive actions are possible.

► The team suggests that, in relation to the actions of inspectors at the request of a party, in cases of termination of employment, payment of wages and other income and cash benefits paid by the employer, the notice of inspection issued by the inspector to the employer greatly facilitates the procedure. This is because the employer was given an opportunity to comply with the law before the inspection, for example, to comply with the legal procedure, pay delayed wages and so on and thus avoid punishment.

N) Social partners

Final conclusions

► Conclusion

Recommendations of the ESAP peer review teams by country

SERBIA
Peer review performed by a team from Albania and Bosnia and Herzegovina, entity Republika Srpska

A) Legislative framework

B) Cooperation

- Provide powers to other inspectorate sections to use their audits to check the employment status of the workers found on company premises and thus assist the efforts to tackle undeclared work.

C) Data analysis and information management

D) Labour inspectors' status and powers

- Because labour inspectors perform very difficult tasks, as they have to access different terrains, construction sites, production sites and so on, their salary levels should be reviewed to include an additional payment to compensate. The team suggests raising labour inspectors' wages and other forms of remuneration.

E) Staff, human resources

- The number of vacancies in the Labour Inspectorate of the Republic of Serbia is currently considerable (approximately 62). This year, this number is expected to increase as a number of inspectors reach retirement age.

F) Recruitment

- Most current inspectors are trained as lawyers and engineers. However, the vacancies in question may be filled by candidates with a higher education in other fields. The team suggests hiring more labour inspectors, in line with the Rulebook on Internal Organization and Systematization of Posts of the Ministry of Labour, Employment, War Veterans and Social Affairs.

G) Training of inspectors

- There is a training centre in the Republic of Serbia, which also trains labour inspectors. However, this Centre does not fully meet labour inspectors' needs. Because the issues addressed by labour inspectors directly affect the quality of the labour market both within the country, and also in the Western Balkans region and beyond, it was considered necessary to establish a Training Centre at the regional level. This recommendation was welcomed at the roundtable discussion between the three representatives of the labour inspectorates of Albania, Republika Srpska and the host country Serbia.
- The team suggests establishing a training centre for lifelong learning for labour inspectors and to develop a detailed Annual Training Plan.

H) Non-staff resources

- It is recommended that the Labour Inspectorate receive support in terms of both logistics and infrastructure, but also human resource development, in order to motivate labour inspectors to fulfil their mission successfully.

I) Access to databases, information and e-inspector system

J) Inspection techniques

- ▶ During their visits to enterprises the team witnessed high-quality inspections conducted by career and professional inspectors. The inspections were classified into labour relations inspections, occupational safety and health inspections and integrated inspections, which were carried out by type of activity and used separate checklists. The team suggests creating a brief checklist used exclusively to verify the employment status of workers found on company premises.

K) Planning

L) Risk assessment

M) Enforcement action

- ▶ Another finding from this visit was that, when labour law violations were found, labour inspectors entered them in their reports, but had no right to impose sanctions. The violations were afterwards referred to the Administrative Court for further prosecution and resolution.

N) Social partners

Final conclusions

▶ Conclusion

The Labour Inspectorate of the Republic of Serbia is a well-organized and properly functioning institution, which fulfils its mission and objectives as part of the Ministry of Labour, Employment, War Veterans and Social Affairs. All relevant regulations have been adopted and are in line with EU Directives.

Given its geographical position and well-defined system and operating procedures, the Labour Inspectorate of the Republic of Serbia should, in a sense, take the lead in coordinating the activities of labour inspectorates in the region. Workforce fluctuations identified throughout the region point to a lack of a functional shared database and platform for information exchange.

Recommendations of the ESAP peer review teams by country

A) Legislative framework

B) Cooperation

C) Data analysis and information management

- ▶ Publish examples of good practice but also of irresponsible employers (such as employers on whose premises inspectors found “illegal” workers or who have not put in place appropriate OSH measures) on the Inspectorate’s home page.
- ▶ Harmonize the records on occupational diseases and conditions of the Labour Inspectorate and the Occupational Medicine Institute.

D) Labour inspectors’ status and powers

E) Staff, human resources

F) Recruitment

G) Training of inspectors

- ▶ Enable continuous education of labour inspectors through seminars, professional conferences, and so on, aiming to improve their overall professional competencies.

H) Non-staff resources

- ▶ Integrate the remaining local labour inspectorates with the Republic-level one and establish a single labour inspection service, in line with the 2020 Law on Inspections, and thus facilitate coordination, preparation and implementation of inspection audits, provide uniform procedures, and simplify analytical efforts.
- ▶ Improve the technical capacities of the service to increase its efficiency, including vehicle fleet, computers, fast document scanners, printers, and cameras.

I) Access to databases, information and e-inspector system**J) Inspection techniques****K) Planning****L) Risk assessment****M) Enforcement action****N) Social partners**

- ▶ Intensify social dialogue to facilitate collective agreements for the private sector, as a long-standing open issue.
- ▶ Continue and increase efforts to improve the work and occupational safety and health culture by promoting compliant companies and good practice through panels and roundtables involving employers, trade unions, other partners and relevant stakeholders, as well as through media campaigns, promotion activities, and so on.

Final conclusions**▶ Conclusion**

The Labour Inspection Section is a well-organized and properly functioning unit of the Republika Srpska Inspectorate.


The key laws and bylaws on labour relations and occupational safety and health provide a good legislative framework for the activities of the Labour Inspectorate and are largely harmonized with EU legislation.

Choosing to provide all inspection sections within the umbrella Inspectorate with powers to control the mandatory registration of workers with the Social Insurance Fund has contributed hugely to improving the efficiency of inspections and tackling undeclared work.

The Inspectorate carries out the planning, organization and conduct of inspection audits properly.


The Republika Srpska Inspectorate's information system is a well-designed functional application that largely meets the Labour Inspectorate's needs related to planning and conducting inspections, and supplies the service with relevant data to carry out the necessary analyses. Links with other relevant bodies ensure exchange of the information needed to plan and conduct inspections properly.






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