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**The global economic and social crisis
and its impact on labour inspection systems**

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Introduction

Since their establishment in the 19th century, labour inspectorates have evolved gradually and in conjunction with social and economic events. In general, the changes to the inspector's power and status over the past centuries – following amendments to national labour legislation – are the response to changes in the substance of social policy, which themselves were a consequence of national events.¹ For instance, the protectionist tendency of the State which was widespread during the first few decades of the 20th century prompted substantial amendments to labour laws and gave the inspector new and important powers in an administrative (state) framework with respect to compliance. This development resulted in the creation of a true labour administration system with broader and better defined content.

Since then, a number of European countries have drawn the conclusion that the state needed an administrative presence in the world of work (which subsequently occurred in conjunction with labour laws). There were a number of reasons for this development:²

- The link between labour laws and the public interest (or public order). Labour rights arose out of the need to settle conflicts sparked by social unrest, to alleviate tensions, improve social governance and resolve so-called social issues. More recently, but no less evident, is the importance of avoiding unfair competition and social dumping, for which purpose, compliance with the law is crucial;³
- The administration's interest in supervising labour issues. This is evident, for example, in the collection of social security payments, which must be controlled in order to avoid fraud;
- The speed and lower total cost of the administrative process in comparison to the legal process;
- Lastly, the inspectorate does not always resort to sanctions in its activities, thereby avoiding conflicts at the source and solving labour problems without having to wait for a court ruling. Furthermore, the inspection may only impose sanctions based on its own judgment (“stick and carrot” or “obey and avoid a sanction”), making its actions more flexible and effective.

The contribution of labour inspection towards improving worker health, employment and working conditions has been remarkable in the 20th century. In the United Kingdom, the rate of deadly accidents at work per 100,000 workers dropped from 3.6 percent in 1971 to 0.8 percent in 1994.⁴ For example, in several countries around the world, inspection campaigns have dramatically reduced problems related with

¹ For example, in France, in June, 1936 worker riots led to the enactment of laws on June 20, and 21, 1936.

² For more detail, see González Biedma, 1999, pp. 61–65.

³ In fact, several Community directives – and, in particular, laws on health and safety at work – underscore the need to create a common framework at European level with regard to social expenditure in order to ensure the proper functioning of the internal market

⁴ Ellis. A. Labour inspection in Western Europe, policies, practices and experiences in the ILO Worker Education Magazine.

discrimination at the enterprise level (France and Spain), or child and forced labour (Brazil).

From the foregoing, it is clear that the institution of labour inspection has a twofold nature. On the one hand, it supervises the enforcement of legal provisions⁵ (even prior to a formal and practical inspection⁶), particularly with regard to health and safety. This function is not, however, restricted to conditions of work and worker protection, since inspectors often enforce other legal provisions governing social services, migrant workers, vocational training, social security, etc.⁷ On the other hand, labour inspection has an administrative function, providing information, education and consultancy services. This double role makes the labour inspectorate a key institution in the face of challenges in the world of work. It is quick, direct and could (should) be able to effectively remedy a range of labour problems on the spot. As such, labour inspection is a tool for good governance and of particular importance when there is labour market turmoil.

Due to the recent economic crisis, unemployment and the use of precarious employment contracts has increased, negatively affecting workers' rights and protections. During the crisis, companies have made difficult choices in an effort to reconcile the survival of firms with security of employment, wages and benefits. In many cases, employees who feared losing their jobs accepted lower wages or reduced working time rather than face the prospect of unemployment. Sometimes these decisions were made through negotiation or concession bargaining between unions and employers. In other cases, such decisions were taken unilaterally by management. Regardless how the decisions were made, there is a vital role for labour inspectors to ensure that these compromises, while perhaps necessary and consensual, do not violate the rights of workers.

Moreover, the inelasticity of labour supply in some countries, led to an increase in undeclared work⁸ and consequently problems of labour standards compliance. In this context, labour inspectorates are developing new practices or enhancing old ones to find methods to combat undeclared work and labour violations, and to cope with the economic changes. In addition, while inspectorates are familiar with urgent and large scale labour problems, inspectors have had to adapt to a labour market crisis of unprecedented scale and scope with no warning and no new means or resources.

The close link between the different spheres related to labour market intervention confirms that the labour inspectorate is not only a living body, but in fact a central institution in dealing with labour market challenges. Inspectorates that take into account

⁵ The workplace visit provides a unique opportunity to supervise compliance with a number of different aspects of the law and to improve labour relations with immediate effect

⁶ See Paragraph 2 of the Labour Inspection Recommendation, 1947 (No. 81), which calls on Member States to make arrangements for reviewing plans for new establishments or new production processes, and Article 17 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which specifies the preventive supervision of new plant, new materials or substances and new methods of handling or processing products.

⁷ Some of these competencies are described in paragraph 2 of Recommendation. 133 on labour inspections in agriculture.

⁸ Often called informal or illegal work, the EC defines undeclared work as "paid activities that are lawful as regards their nature but not declared to the public authorities..." (COM (98) – 219 final)

all aspects of the world of work can successfully ensure better labour conditions, a safer working environment and, consequently sound labour relations. Whatever their legal scope, inspectors must be flexible and avoid narrow approaches based on a single specialization (legal, technical, medical, social) in favour of a truly coordinated and complementary vision.

There is a great diversity in labour inspection systems across the world. In fact, most systems are made up of hybrid elements to a greater or lesser extent. This is the case of the typical technical labour inspection seen in Scandinavian countries where the inspector used to focus almost exclusively on safety and health but now also supervises certain aspects of conditions of work (working time, permits and child labour).

As a consequence of changes in the labour market over the last decade, one growing trend has been to enlarge the competencies of labour inspectorates (in particular in countries that focus in OSH inspection) to cover other problems related to employment relation issues. This tendency began in the early part of this decade but has become more apparent in the past few years as an indirect consequence of crisis (and pre-crisis) developments (i.e. the expansion of undeclared work). The cases of Switzerland and Ireland are quite enlightening.

In Switzerland, on 1 January 2008, a Federal law came into force on undeclared work that provides, among other things, the appointment of an inspection body at the canton level with reinforced investigative powers. This same body plays a central coordinating role between the different relevant agencies, such as the tax authorities, employment services offices, social security bodies and the police. This same law established tougher penalties (fines, disqualification from public contracts and the publication of offending firms on the Internet). This new body has been created in parallel to the traditional health and safety inspectorate.

In this framework, some cantons such as Geneva go even further, realising the importance of improving collaboration in order to deal with the phenomenon of undeclared work comprehensively and coherently. Above all, this has led to a regrouping of the labour inspection services and the agency in charge of monitoring migrant workers. At present, for example, Geneva inspectors carry out joint inspections of working conditions in sectors with the highest incidence of undeclared work (janitorial services, hotels and catering, etc.) in which all the inspection authorities take part.

On 18 March 2008, the Employment Law Compliance Bill 2008 was published in Ireland for the purpose of securing better compliance with employment legislation.⁹ According to its provisions, labour inspectors would be able to conduct joint investigations with agencies such as the Revenue Commissioners, social welfare inspectors, Ireland's National Police Service, and the Department of Social and Family Affairs.

The main provisions outlined in the bill include establishing the National Employment Rights Authority (NERA) on a statutory basis as an office within the Department of Enterprise, Trade and Employment. It also foresees the recruitment of new labour inspectors (90), the strengthening of inspection and enforcement powers and other provisions to secure compliance with labour legislation.

⁹In accordance with the commitments made by the social partners under the *Towards 2016* agreement.

In most labour administration systems (mainly in countries with existing labour inspection competences in employment) a major effort to modernize and reinvigorate inspection has been underway in the past three years and especially in 2009 (e.g. the Netherlands¹⁰).

While there have been efforts in many countries to strengthen the work of national labour inspectorates, they still have many financial and human resource needs and were not spared from the impact of the financial and economic crisis.

Several countries have introduced policies and measures to increase staff, improve performance and to focus their activities (e.g. in 2009, Portugal recruited 100 new labour inspectors and Bulgaria, Chile and Spain have established and developed new, comprehensive training programs). On the other hand several inspection has been affected like Sweden¹¹, U.K.¹² and Spain,¹³ to reduce the public expenses by cutting the budget of all responsible Ministries.

In Greece, during the financial crisis, labour offences and complaints have increased. Increasing labour inspectors' income in 2009, in the form of an allowance, has contributed towards motivating them to work more intensively and thus increase the number of inspections. The labour inspectorates of France, Spain, Romania and Poland have also increased the number of visits in the last year as indirect results of the crisis.

The role of labour inspection and the effects of the crisis

In effect, the transformations that have taken place in the world of work (not only as a result of legislative reform) have forced inspectors to adapt in order to continue to effectively perform their duties. This has especially been the case during the current economic crisis.

The markets evolution also obliges the labour inspection to be more flexible and be able to rapidly channel resources towards new challenges without losing sight of the priorities in order to exert as much influence possible on safety and health and conditions of work in companies. Throughout the world, there is a call for to develop and strengthen coordinated labour inspection systems that can globally cover all issues regarding health and safety at work, the employment social protection of workers and the supervision of fundamental standards at work.

Ensuring compliance with labour laws, as already mentioned, is of particular importance in light of the current economic situation and rising unemployment. For several governments and social partners, inspectorates should focus on limiting the impact that cost reduction measures have on working conditions. Experience from a previous crisis (80s) proves that in a difficult economic environment, the tendency to avoid the costs of labour law obligations is intensified. To take but one current example,

¹⁰ www.eurofound.europa.eu/areas/labourmarket/tackling/cases/nl002.htm

¹¹ www.eurofound.europa.eu/eiro/2009/06/articles/se0906029i.htm

¹² www.guardian.co.uk/uk/2009/apr/24/budget-spending-cuts-alistair-darling

¹³ www.forbes.com/feeds/afx/2009/09/29/afx6940763.html

the number of labour law violations was more frequent in Poland in 2009 than the year before, with 9,200 cases so far this year compared with 8,200 in 2008.¹⁴

Once the crisis started to lead to layoffs and greater unemployment, several national measures and regulations were introduced or reinforced that affected the programs and plans of national labour administrations, including labour inspectorates. However, it is encouraging to note that there are not many countries that compromised existing labour standards as a response to the recession. By contrast, some countries have implemented law reforms (beyond the already mentioned Irish and Swiss examples) and in some cases new sanctions procedures were introduced and fines and penalties increased giving national enforcement agencies stronger sanctioning tools (e.g. the Employment Act and the fight against illegal labour in the Czech Republic, or the new Australian Employment Act).

In Greece, the government introduced a new law in 2009 that increases the number of labour inspectors and strengthens the power and effectiveness of the Labour Inspection Body (SEPE). The new law allows labour inspectors to impose higher fines (up to 50,000 Euros per offence instead of 500), to induce companies to comply with labour laws.

Bulgaria adopted a new Labour Inspection Act, which amended its Labour Code to strengthen enforcement and compliance. Latvia too adopted new labour inspection legislation. Portugal's revised Labour Code, adopted in November 2008, redefines the concept of the employment contract in order to make it easier to identify "false" self-employment. Hungary has introduced new rules on the payment of costs in labour law cases, increasing the costs for which unsuccessful parties are liable. In Finland, legislation on an employers' duty to inform employees of their terms and conditions of employment was amended, notably to introduce stronger penalties for employers who breach this requirement.

The crisis, while devastating to many workers, provides an opportunity for labour inspectorates to improve their inspection systems, revise applicable standards, improve the availability of information, and improve relations with those economic sectors most affected by the crisis and with other relevant government agencies. This opportunity has been recognised in different fora, such as the recent (XVI) Inter American Summit of Ministers of Labour of the Organization of American States held in Buenos Aires from this past October. At this event, delegates recognized that labour administration and labour inspection were among the main tools for developing national social development policies and national programs for creation of decent work.¹⁵

Moreover the ILO's recent report to the G20 in Pittsburgh highlighted how some countries such as the Republic of Korea and Argentina have strengthened their labour administration and inspection systems in response to pressures to undermine labour conditions. It is also held up as an example the Australian Fair Work Act, which increased the powers of labour inspectors to investigate working conditions.¹⁶

¹⁴ www.pip.gov.pl/html/en/doc/program_2009_eng.pdf

¹⁵ www.sedi.oas.org/ddse/english/cpo_trab_XVI_CIMT.asp

¹⁶ ILO. Protecting people, promoting jobs. Geneva. September 2009. page 39
www.ilo.org/public/libdoc/jobcrisis/download/protecting_people_promoting_jobs.pdf

Despite the public recognition of the relevance of labour inspection in times of economic crisis, the main actions of policy makers have been centred around ways to restore economic growth and create jobs rather than reinforce public institutions such as labour inspectorates (see the reduction of Ministry expenditures above). In fact, currently, information about the real impact of this downturn on labour inspection bodies is unavailable, and it is too early to draw any meaningful conclusions. Nonetheless, some elements and recent changes can allow us to suggest tendencies and futures challenges that should be taken into account by labour administrations in the near future to guarantee compliance and better working conditions, even in financial situations.

The impact of the crisis on working conditions, safety and health

Enterprises and governments have employed several mechanisms to modify working conditions as a cost saving measure in the face of depressed demand. Besides wage freezes, work sharing schemes and the outright reduction of working hours have been used in several countries such as Germany, Japan and Turkey, though not always combined with awareness raising actions or training for officials in charge of ensuring legal compliance for such measures. Other countries, like Poland and Portugal, included the control of payment of salaries and working time arrangements and regulations as a priority in their national inspection plans (covering last three year).

The National Labour Inspectorate (NLI) of Poland has increased the number of inspections in 2009 focusing on sectors of the economy and individual enterprises with the greatest incidence of occupational hazards and wage-related problems. The NLI inspected 40,000 companies in the first half of 2009, compared with 35,000 enterprises in the first half of 2008. On the basis of these inspections, the NLI observed that, in the course of one year, the scale of legal infringements with respect to wage payments had increased. During the first half of 2009, 46,000 employees at some point did not receive payments to which they were entitled. During the same period in 2008, the same problem affected only half as many workers. Moreover, the amount of unpaid wages increased from PLN 44 million (€10.8 million) as of 24 August 2009 to PLN 680 million (€167 million) year-on-year.¹⁷ The data collected imply that the biggest problems occur in small companies employing up to 49 people. Some measures were implemented recently in the Netherlands to control payment of legal minimum wages as part of a broader campaign against undeclared work (see below).¹⁸

In the United Arab Emirates a new wages protection office has been established by Ministerial Order No. 988 (21/10/2008). It is a new comprehensive system to monitor wages and working hours, implementing the Ministry of Labour's initiative of having workers' wages paid by direct bank deposit, which can be more easily monitored by labour inspectors during their enterprise visits. Forty-six inspectors work in the office carrying out 54,222 visits between November 2008 and April 2009 (306 enterprises were in non-compliance and 25 of these were referred to the courts). This system was complemented in January 2009 by an electronic and telephonic complaints service dealing with wages. Inspectors receiving complaints send a confirmation by mail or SMS and handle the case until its resolution in conformity with the law.

¹⁷ www.eurofound.europa.eu/eiro/2009/08/articles/pl0908019i.htm

¹⁸ www.pip.gov.pl/html/en/doc/program_2009_eng.pdf

Statistic at the national and regional level in Europe¹⁹ show that the crisis could also considerably affect safety and health at all levels. This is particularly the case where increased work demands are placed on a reduced number of staff or where there is a reduction in staff training (whether for staff or inspectors themselves). Similarly, routine maintenance of machines, technical equipment and premises may be scaled back. Furthermore, the stress associated with potential layoffs and business restructuring can lead to stress-related illness. In Europe, a study on the impact of the crisis on worker safety and health showed an increase in the number occupational related heart attacks, psycho-social and cardiovascular disorders,²⁰ and long term disabilities. Even if the overall number of accidents at work and their frequency has diminished as result of European reduction targets, this is also a function of the reduction in new employment contracts offered to unskilled (often young) workers and to migrants. Nonetheless, overall, the categories of workers that suffer the highest percentage of injury or death at the workplace are typically temporary, part-time, or self-employed workers, particularly in small and medium-sized enterprises.

Some countries have introduced measures at the level of the labour inspectorate to reduce this impact. In Poland last year, the NLI put an emphasis on training sessions held directly in enterprises dealing with occupational stress, and on conducting assessments of psychological working conditions jointly with employers and employees. The reason is that, because the introduction of new forms of work results in irregular income, uncertain unemployment and the fear associated with potentially losing one's job contribute to psychological problems and elevated stress levels. This phenomenon appears to have led to an increase of occupational hazards.²¹

Effect of enterprises restructuring and downsizing

Industrial restructuring cases have increased dramatically in the last year with an important impact on labour administration services and in particular on labour inspectorates that have broader competencies over employment matters.²²

In Europe alone, a total of 609 collective layoffs were recorded during the first quarter of 2009, involving around 220,000 jobs. The sectors most affected by job losses were the financial sector, auto manufacturing and retail.²³ During the same period, the highest number of announced job losses was in the UK (63,314), followed by Poland (38,975), Germany (17,461) and France (11,779).

¹⁹ Review of the results of questionnaires on occupational diseases in the EU and the total incidence of occupational accidents among European Union countries. Senior Labour Inspection Committee. Internal document for the 56th meeting on 28 May 2009 in Prague, Czech Republic.

²⁰ In fact, this increase is related to heart attacks or strokes as a consequence of stress associated with work reorganization and unemployment

²¹ www.pip.gov.pl/html/en/doc/program_2009_eng.pdf

²² In addition to the standard notification and consultation requirements (as required by the ILO Termination of Employment Convention (C. 158)), employers in some countries are also obliged to secure authorisation from the labour administration before proceeding with a collective redundancy. In several cases, this is a responsibility given to the labour inspectorate.

²³ European Restructuring Monitor ERM, Number 1, 2009 EUROFUND, www.eurofound.europa.eu/emcc/erm/templates/displaydoc.php?docID=51

In Spain, labour inspectors are the authority in charge of monitoring cases of mass layoffs. By definition, collective redundancies affect larger firms as reflected by the fact that Spanish industry and manufacturing accounted for about two thirds of the downsizing plans. The service sector accounted for most of the rest. The proportion of industry/manufacturing layoffs tends to peak during downturns. The national labour inspectorates estimates that in 2008 the number of redundancy cases in Spain increased by 234 per cent compared with 2007. Moreover, the number of inspection actions related to business closures increased by 300 per cent.²⁴ Considering also that the crisis could have an important effect on the expansion of undeclared work, the Spanish labour inspectorate has planned over 20,000 actions (visits and document reviews) for 2009. This figure represents a year on year increase of 30 per cent in the total number of inspection visits.

In France, an increase in the number of requests for partial unemployment²⁵ grew in parallel with inspections related to the monitoring of social security payments, working time, justifications for collective dismissals or suspensions and the implementation of employment plans.

During the first six months of 2009 in Poland, an increased number of official complaints were reported to the NIL (513 compared with 185 in 2008) regarding lay-offs for reasons unrelated to worker performance. Such lay-offs took place in the context of company restructuring or liquidation, requiring the payment of severance in accordance with Polish law on the rules of termination of employment.

The special case of undeclared work

Undeclared workers have been identified as a main priority for inspection visits and actions in the majority of industrialized countries.²⁶ In fact, most of the administrative and penal actions of labour inspectorates are related with undeclared work. Since 2008, this focus has magnified as the economic crisis has increased the incidence of undeclared work.

There is a multiplicity of definitions and approaches to undeclared work around the world, partly as a result of policy choices on the extent of regulation but also because the complex and heterogeneous nature of undeclared work and because the workers involved are so diverse (e.g. skilled and unskilled; men, women and children; nationals and migrant workers).

In several countries, inspectorates have been focusing their work in sectors that suffer from a higher incidence of illegal work. For instance, inspectorates target the construction and clothing industries in Romania, the construction sector in Cyprus, Italy, Austria, Lithuania and Sweden, the construction, agriculture and catering in Netherlands, driving school activities and retail trade in Slovenia, the hotel and restaurant industry in Latvia, Portugal and Denmark, road transports (including public transports in cities and

²⁴ Data from *El periodico de Aragon*, 28/01/2009.

²⁵ Some 319,000 workers were partially unemployed in France during the second quarter of 2009, represents an increase of 160,000 workers compared to the first quarter of the year (Source: Ministère du travail et de l'Emploi, France)

²⁶ EU-OSHA. *Labour inspectorates' strategic planning on safety and health at work*. Results of a questionnaire sent to EU-OSHA focal points. WP 10 European risk observatory. 2009. Page 43.

towns), construction sites in Poland, and insurance and information sciences companies in Greece.

In many countries, combating undeclared work usually forms part of a wider strategy directed against undocumented employment in general.²⁷ Consequently, monitoring undeclared work is the direct competence of labour inspectorates (e.g. in France, Hungary, Poland, or Portugal). Other countries like Austria (in 2002) or Germany (since 1991) have decided to exempt labour inspectors from the need to monitor undeclared work. Instead, special units comprised of tax officials and police have been set up for such purposes.²⁸

Whatever government authority is in charge, inspection agencies encounter numerous difficulties when implementing measures against undeclared work. The jurisdiction and capacity of these agencies are often insufficient.²⁹ Nonetheless, several measures have been taken with a view to preparing or facilitating the task of labour inspectors. These include focusing on preparatory activities (including issuing identity cards mainly in the construction sector), information and dissemination campaigns, or seeking the registration of workers prior to the start of employment. Such is the case in the Czech Republic where a multi-ministerial body for combating illegal employment of foreign workers was established in 2000. For its part, Italy has set up a National Committee for the Formalization of Irregular Work (1998). In the Netherlands, the already mentioned enforcement measures will serve to detect undeclared work (and to monitor the payment of wages). Similar measures have been taken by the Portuguese Labour Inspectorate, which recruited 100 new inspectors in 2009. Also, the Latvian Labour Inspectorate, in collaboration with the Ministry of Welfare, is developing a plan for 2010-2013 to improve the inspectorate's capacity to reduce the incidence of illegal employment.

Information campaigns, which primarily inform young people about the benefits of declared labour, are one preventive approach taken by several countries such as Denmark, Latvia, Estonia, Lithuania, Bulgaria, Poland, Portugal³⁰ and Malta.³¹

Outside of Europe, the regularization of clandestine workers in Argentina has been relevant high priority of the labour administration. Since launching the National Labour Regularization Plan in 2003, an estimated 24 per cent of the workers concerned have been visited. The inspections combine information recorded during the visit with

²⁷ See: Combating the illegal Employment of Foreign Workers. OECD Paris, 2000 (p. 8).

²⁸ However, in Germany, the labour inspection services of the states (*Länder*) are still responsible for the registration of commercial activities and independent workers into the trade register. The labour inspectorates collaborate with the financial inspectors through information exchanges and, on occasion, joint inspections. In 2007, the Ministry of Finance concluded a cooperation framework agreement with the Ministries of Economy of the states on cooperation between labour inspectorates with the financial inspection unit.

²⁹ Combating Illegal Employment...op.cit. (p. 134)

³⁰ "Measures to tackle undeclared work in the European Union", European Foundation for the Improvement of Living and Working Conditions, 2008.

³¹ www.inspektorat.vladars.net/index.php?option=com_content&view=category&id=109&Itemid=151&lang=en

databases providing information on employers' contributions and payments, detailing the number of workers registered.

In Peru, the RETO plan requiring worker registration has been in place since 2008 to regularize unregistered workers, raise public awareness, investigate current workplace conditions and initiate targeted labour inspection activities on a large scale to identify businesses at risk. One of its objectives is to transfer 500,000 workers to electronic payroll systems between 2008-2011.

Another useful initiative involves enhancing the coordination of inspection strategies and operations, including data sharing. In Luxembourg, under the auspices of the Labour and Mines Inspectorate, the Inter-administrative Unit for Combating Illegal Work (CIALTI) has been in place since 2000 and has been strengthened since 2008 in light of the impact of the crisis. This unit is capable of mobilizing over 200 officials from six to eight ministries, administrations or public agencies if required. It has carried out a number of unannounced inspections at construction sites nationwide.

In France an Inter-ministerial Directorate against Illegal Labour³² has brought together a number of representatives from different government departments responsible for: Justice, Labour, Agriculture, Transport, Interior, Finance, Public Affairs, Economics, and Defense. This directorate has the responsibility to:

- Define a policy for monitoring illegal work;
- Coordinate the public services charged responsible for monitoring illegal work;
- Organise joint training of relevant officials;
- Give legal and technical support for networks of officials.

A similar coordination mechanism was established in Italy in 2004 (Decree 124) allowing labour inspector to intervene in any action undertaken by government authorities in relation to combating undeclared work.

In Serbia, a crisis committee was established in January 2009 in the Ministry of Labour and Social Policy (of which the inspectorate is part). The intensification of inspections to control illegal work was one of its first agreements, although practical steps to implement this agreement have not yet been taken.

In Belgium, several information networks help detect and prevent undeclared work. This is the case of Dimona, which is used to register new employees with the National Office for Social Security. There is also an information system called LIMOSA that contains data on migrant workers. Moreover, the Social Inspection Services Anti-fraud Organisation set up a database in 2001 in the framework of a common anti-fraud project organised by federal government ministries and national offices.

Other measures aimed at curbing the trend towards undeclared work include the creation of specialized groups of labour inspectors. This approach can be found in Poland where legislation in 1995 established a corps of 'illegality' inspectors.³³ The Federal Government of Belgium set up the Social Information and Investigation Service to intensify and streamline its fight against social welfare benefit fraud. This new organism

³² DILTI, Délégation interministérielle pour lutter contre le travail illégal created in 1997

³³ However resources devoted to these inspectors have been reduced. In year 2000 were 697 inspectors and in 2008 only 288.

is specifically designed to improve coordination between the various agencies involved in fraud prevention. As part of this initiative, the competencies of social welfare inspectors have also been extended. In the Netherlands, a special antifraud unit was created within the labour inspectorate to combat illegal work and the number of inspectors has been growing exponentially since then.

In Latvia, the State Labour Inspectorate (VDI) started to name and shame companies on its website that employed workers illegally. In this way, the VDI urges employers to protect their reputation by avoiding illegal employment. The purpose of this publicity is also to let workers know which companies disregard their employees' rights. In addition, the Ministries of Labour in Latvia and Greece have established anonymous public hotlines to record grievances. This offers workers a simplified way to report cases of undeclared work in addition to other employment abuses.

Cooperation among government services at the national level to effectively combat undeclared work is fundamental. Since 1995, the Netherlands has promoted coordination through the Public Prosecution Department of the Ministry of Justice which established policy guidelines in this regard. These guidelines are complimented by an agreement from 1996 between tax and social agencies on information exchange.

In 2004, a strategic plan was devised to improve Spain's Labour and Social Security Inspectorate. One of the main objectives of the plan was to increase the number of inspectors, and improve information systems and equipment. The reorganisation of information systems has led to considerable changes in the inspectorate's processes, improved coordination with other areas of the administration and better relations with the public. Campaigns to fight against fraud and illegality have also been undertaken. These improvements have, in turn, enabled the inspectorate to make significant progress regarding the regularisation of informal employment.

In Lithuania, reducing illegal work is considered to be a main target of labour inspection action. In 2008 alone, 4,554 inspections on illegal work were carried out.

Prevention versus sanction

In general, inspections should combine preventive measures with sanctions and provide technical guidance for workers and employers on how to meet their obligations. In most of the countries, however, the use of these two approaches is not always balanced (most laws in fact define the main function of inspection as enforcing compliance with legal provisions).

However the imposition of penalties against employers is not without controversy. In light of some national experiences, sanctions would appear to be of limited effectiveness, because of their often long and tedious procedure or even concerns about corruption. Also, in many cases, the size of fine is not seen as being adequate to discourage employers from violating the law. In fact, some entrepreneurs may risk being fined based on the calculation that the savings made from violating the law (e.g. avoiding social security contributions) are greater than the potential penalty.

In many countries the number of sanctions increased since 2008, following a larger number of infractions detected during the economic crisis. In Poland, for example, sanctions rose from 3,931 instances in the first half of 2008 to 4,408 in the first six months of 2009 alone. The only indicator that diminished in 2009 was the number of cases against employers that were referred to the courts by labour inspectors (1,091 in the first half of 2009 compared with 1,226 in the first half of 2008).

Some counties have been providing alternative measures such as providing advisory services instead of imposing sanctions. In Chile, there is a special program for small and medium-sized companies that violate labour laws. Entitled the “Programme to Substitute Fines by Training”, employers can avoid being fined by enrolling in an ad hoc training course. In Guatemala and the Dominican Republic, in the case of an infraction, employers who do not have the means to pay a fine may be directed to participate in a human resource development training program (INTECAP and INFOTEP respectively), which is subsidized by the state.

Special actions: Information and education

As noted in many cases above, there is an important preventative role that labour inspectorates may play through awareness raising and dissemination of good practices. While sanctions and fines are an important component for ensuring compliance, providing good information to constituents through educational activities cannot be ignored as a valuable tool to encourage respect for the law.

In Poland, the National Labour Inspectorate designed educational programmes for teachers dealing with work safety issues in order to prepare students for their future professional lives. It has also instituted a practice of ongoing dialogue between district labour inspectorates and teachers. Moreover, the NLI has joined with labour research institutes as well as social partners to plan educational activities for the broader public, including through an online platform for counselling and information on labour law.³⁴

In the United Arab Emirates, the Ministry of Labour launched an information campaign in 2009 with the participation of 30 inspectors, on labour and human rights. The campaign covered 30 major construction firms in three cities (Abu Dhabi, Dubai and Sharjah). Additionally, the Office of the High Commissioner of Human Rights and the State delivered a training course on Inspection and Human Rights to 60 inspectors from the Ministry of Labour and other Public Authorities and Municipalities. The Ministry has also introduced a complaints hotline for the public, to ensure efficiency and transparency in labour administration.

Cross border activities: a new promising approach

Last but not least, and taking into account the increasing mobility and circulation of workers and services across the borders, more and more special campaigns in terms of joint inspection are being conducted in a cross border context, notably in border zones. For instance, the labour inspectorate of Luxembourg invites German control bodies on a regular basis (labour and financial inspectorates) to perform joint cross-border inspections of construction sites where workers are posted. Similar cross-border inspection campaigns are conducted between France and Belgium and between Portugal and Spain. Outside of Europe, there are also some examples of joint inspections between Argentina and Brazil and Argentina and Uruguay.

Looking at other kinds of collaboration, an agreement between the National Labour Inspectorate of Poland and the Authority for Working Conditions (ACT) in Portugal calls for cooperation and mutual exchange of information. These countries are making efforts to strengthen their relations by exchanging labour inspectors, experts and technical

³⁴ www.pip.gov.pl/html/en/doc/program_2009_eng.pdf

materials and by organizing practical joint training courses.³⁵ Additionally, the European Network on Undeclared Work, which seeks to develop new strategies to combat illegal work, has been established between Belgium, France, Germany, Italy and Romania. The Netherlands has been collaborating with Bulgaria, Poland, the United Kingdom, the Republic of Slovakia, France, Portugal and the Czech Republic, to fight illegal labour. Luxemburg and German Labour Inspectorates cooperate regularly to conduct inspections on construction sites. Similar collaboration exists between Belgium, Germany, Luxemburg and Portugal, while an agreement on exchange information between Belgium and Bulgaria is set to be finalised.

Cross border inspection is becoming in this context a main subject to be discussed and in fact is included as a central topic in the EU Senior Labour Inspection Committee (it has been identified for a thematic discussion in 2010 during the Spanish presidency).

Some initial findings and conclusions

This brief paper has shown that over the last decade, several changes have been implemented in many countries in Europe and elsewhere aimed at improving the effectiveness of national labour inspectorates. Though it is not possible to say that the economic crisis has been at the origin of these reforms, nonetheless, the recent crisis and its effects have influenced labour inspection developments both at the institutional and programmatic level.

Most labour administration systems have been adopting and implementing changes directly or indirectly addressed at improving labour inspection performance and results. The few cases where state budgets have been cut during the crisis did not had any considerable impact on labour inspectorates.

Even still, the economic crisis, to different degrees, has had numerous effects on the activities of labour inspectorates.

The first effect has been to confirm the importance of labour inspectorates in labour market governance, especially in times of economic hardship where the downward cost pressures increase the need to protect workers and to ensure that adjustments to working time, wages and other working conditions are done in accordance with the law. At the same time, the crisis is one of the reasons compelling workers and their representatives to call for more and more inspectors to ensure that labour laws are respected and sanctions increased. This can sometimes result in creating tension between social partners and inspectors. Even the media has at times voiced criticism over the inspectorates' actions.

Last but not least, the urgency of the crisis has in many respects limited the labour inspectorates' scope of action. Inspectors have understandably focused their efforts on certain aspects related to the crisis (e.g. mass redundancies) with the result that inspection visits have not conducted in the normally comprehensive or balance way. The impact of this imbalance should be evaluated carefully because it could have a negative effect on other elements of working conditions (e.g. the impact of stress at work), which may be neglected at the expense of crisis-specific issues.

The sudden impact of the labour market crisis has challenged the delivery of effective labour inspection services, particularly where there have been no measures in place or appropriate tools designed to help in this situation. Some inspection campaigns

³⁵ www.pip.gov.pl/html/en/news/08/01080043.htm

and action plans were intensified (e.g. on undeclared work) but an analysis of the real impact and overall consequences of the crisis on labour inspection has not been carried out.

Nevertheless, a number of reforms and institutional changes have been adopted recently, though not necessarily in response to the crisis. Current information about the impact of the crisis on labour inspection is difficult to obtain, in part because annual reports reviewing developments in the current year are only available in 2010. As a result, it is premature to draw any conclusive findings. At a later point, it will be useful to revisit how labour inspectorates were both affected by and responded to the crisis. This should offer up lessons on how prepared and effective different labour inspectorates were to confront the crisis and what approaches could be taken in the future to face a similar situation again.