

CREDIBILITY AND EFFICIENCY OF THE LABOR INSPECTION PROCESS

Evaluation of Experiences of
the “Fair Labor Platform” in
Connection with Labor
Inspections



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Author:
GIGA KARAPETIAN

Legal editor:
ANANO TSINTSABADZE



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Preface

Labor Inspection is the most important tool for protection of labor rights and prevention of their violation in Georgia; due to opting towards deregulation of the economy, this mechanism was abolished in 2006, and after a nine-year interruption of institutional functioning, in 2015 it was revived in an embryonic form and resumed its operation, and within the framework of the relevant obligations and reformation of the labor legislation, stipulated by the Association Agenda between EU and Georgia, this mechanism was gradually modified into an agency, vested with relevant authority. Since 2021, the Inspection has been operating with its full powers. It was established as an independent legal entity of public law under the Ministry of Labor Health and Social Protection. It has the authority to enter and inspect the workplace at any time 24/7, including without warning the enterprise, or its consent. Since that period, the Labor Inspection has been inspecting not only compliance with the labor safety norms, but also such labor conditions and standards, as are defined by the Labor Code to ensure a fair working environment. The powers of the Inspection include the power to detect and impose appropriate responsibility for violations of labor rights, labor safety, forced labor and other violations at workplaces, including the power to suspend operation of an enterprise.

According to the 2020-2021 reports of activities¹, the Labor Inspection was mostly tasked with monitoring the Covid regulations and had relatively little experience in terms of labor safety and, later, rights inspections. However, since public and professional organizations interested in labor rights, trade unions, donors with whose support the Labor Inspection implements many projects, set hope on the activity of the Labor Inspection, in this period, at least the non-governmental sector evaluated the activities of the Inspection. The report drafted by the “Social Justice Center” in 2021, one year after the labor legislative reform, touched upon the general aspects of the activities of the Inspection. The main

1. See at: <https://lio.moh.gov.ge/report/2021.pdf> (page 11) and at: <https://lio.moh.gov.ge/report/2021.pdf> (page 5)

focus of the report was on the institutional arrangement and structural challenges of the Inspection². That is why we decided to analyze the experiences of the beneficiaries and members of the organizations united with the present report “Fair Labor Platform”, and thus partially respond to the need to collect the information gathered directly as a result of the Inspection activities, as well as open a discussion space for talking about those issues, focusing on which, perhaps, in the future, preconditions for more effective and reliable inspections will be created.

We hope that the document will provide information to the interested public about some aspects of the Inspection activities and lay the foundation for the tradition of comprehensive, complete and generalized monitoring of the Inspection, as we believe that only through critical monitoring is it possible to establish the Labor Inspection as an effective mechanism.

2. Evaluation of Labor Inspection activities. Center for Social Justice, 2021. Available at: https://socialjustice.org.ge/uploads/products/pdf/%E1%83%A8%E1%83%A0%E1%83%9D%E1%83%9B%E1%83%98%E1%83%A1%E1%83%98%E1%83%9C%E1%83%A1%E1%83%9E%E1%83%94%E1%83%A5%E1%83%AA%E1%83%98%E1%83%90_GEO_1651066818.pdf last viewed: 30/09/2023



Purpose of the report

The purpose of the report is to collect and analyze the experience of member organizations of the “Fair Labor Platform”. Study from the perspective of the member organizations, in relation with the labor inspection process carried out in the workplaces of the beneficiaries of the organizations and trade unions incorporated in the platform, how effectively the mechanism has worked, how effective it is for the elimination of labor rights violations, as well as how much it inspires trust and what specific challenges it has in this direction.

“Fair Labor Platform” is a voluntary association of non-governmental organizations and alternative trade unions working on labor rights. For four years now, the platform has been working on the protection of labor rights and strengthening the legislative and enforcement mechanisms in Georgia for this purpose, identifying gaps, research, strategic litigation and other directions.³ Non-governmental organizations and alternative trade unions that are members of the platform actively use Labor Inspection to protect the labor rights of their beneficiaries and members; they systematically file complaints and statements on behalf of employees, record messages on the hotline, request inspections at the workplace of their beneficiaries or member employees, provide legal support to their beneficiaries and member employees directly during the inspection process, thus these organizations have direct access to the inspection activity process and have accumulated significant knowledge on the process of labor inspection activities, accordingly, their perspective and the combination and collection of their experiences, are important sources of information to strengthen the labor inspection process, to increase its reliability and efficiency.

3. See Fair Labor Platform/About us at: <https://shroma.ge/about/>

Methodology of the report

METHOD

The research was conducted using qualitative methodology. For its part, the qualitative methodology is focused on in-depth collecting information from the target group, and in the process of analyzing the findings, relying on the experiences of the target group. The specific method through which the collaboration between the members of the target group and the researcher took place was the in-depth interview technique of qualitative methodology. In-depth interviews were conducted according to a pre-developed guide with member organizations of the “Fair Labor Platform” and alternative trade unions, whose representatives directly participated in the inspection processes by representing member employees or beneficiaries; questions related to the purpose of the research were integrated into the guide in the form of open questions, which were related to the trust among employees towards the Labor Inspection and the factors affecting it, as well as the efficiency of the Labor Inspection in terms of eliminating labor violations.

ANALYSIS OF INTERVIEWS AND FINDINGS

The first phase of field work, with the representatives of employees⁴ and employees⁵, was conducted in the period of June 22 - July 10, 2023. The average duration of the interviews was 1 hour and 30 minutes. Representatives of the “Fair Labor Platform” from 6 organizations and trade unions took part in the interview process, as well as we obtained information from three employees who were users of the “Fair Labor Platform” free consultation social networks, whose workplaces were also inspected. In total, the information received through the social networks of organizations or platforms includes up to 30 cases related to the inspection, which summarizes both the inspection carried out directly, as well as telephone consultation and/or the application/complaint filed with

-
4. Representatives from organizations that are members of the Fair Labor Platform (2 in total) and alternative professional unions that are members of the same platform (4 in total)
 5. The number of directly interviewed employees - 3.

the Inspection; in these cases, the subject of inspection was both labor safety and labor rights. After the completion of the first phase, an in-depth interview was conducted with a representative of the Labor Inspection on August 21, 2023. The duration of the interview was 2 hours and 30 minutes. The research findings were integrated into the report by synthesizing them with the analyzed documents related to the research objective. From its part, the completion of the interviewing process involved passing through two main stages - (1) coding and (2) typologization. Coding created a thematic framework of the findings collected as a result of the interviewing process, and at the typology stage, coded findings repeated among the respondents were integrated into appropriate categories. Findings were grouped into two main blocks: (1) factors influencing respondents' trust in Labor Inspection and (2) from the perspective of member organizations, evaluation of the effectiveness of the Labor Inspection process and factors affecting it.

For the analysis and evaluation of the findings revealed through the interviews, the main laws, by-laws, including the regulatory legal acts of the Labor Inspection, technical regulations were used in the field of labor rights regulation. Legal provisions are compared with research findings and used to prepare conclusions or recommendations.

In addition, the annual reports of the Labor Inspection and the statistical information contained in them are widely used. To fill in the information given in the reports, the online mechanism of the "Fair Labor Platform" - labor rights monitor is used. The mentioned mechanism is a database of labor inspection protocols provided by the Labor Inspection since 2020 (more than 600 protocols); Based on the data, the mechanism generates statistical information that is also used to support the research findings. Public information received from the Labor Inspection was also used to prepare the report. Such secondary sources as reports of non-governmental organizations, special and parliamentary reports of the Public Defender, as well as media materials, articles and so on, are widely used.

Limitations of the Report

As mentioned in the methodology, the report is mainly drafted based on the opinions of the representatives of the organizations and alternative trade unions incorporated in the “Fair Labor Platform” (and, accordingly, with the representatives of their beneficiaries and member employees), thus the purpose of the report is to analyze the experiences of the member organizations in connection with the Labor Inspection, and not to generalize the assessment of the Labor Inspection activities or comprehensive assessment of the overall activities of the Inspection. The document is mainly limited to gathering, combining and analyzing the experiences of platform members as member or beneficiary employee representatives.

The focus of the report is on the main trends that were identified in the experience of the representatives of the member organizations as a challenge in the labor inspection process where these organizations represented the employees. However, the report focuses on two important themes emerging from these experiences: respondents’ confidence in inspections as a mechanism and respondents’ perceived effectiveness of inspections in terms of eliminating violations.

In addition, it should be noted that the report cannot assess the trends revealed by the protocols and materials of inspections carried out in 2023, because the Inspection did not provide the protocols for this period, according to them, due to being in the information processing mode.



Key findings of the report

Factors affecting trust in Labor Inspection:

- The form of filing a complaint defined by law, which considers the notification of violation only based on the identification of the applicant or employee, creates barriers for employees to apply to Inspection.
- Confidentiality protection mechanisms used in the inspection process are not sufficient to protect the employees participating in the process; during the research, after the inspection process, cases of disclosure of the identity of the employees were revealed;
- Some of the employees did not receive clear information regarding the legal guarantees of confidentiality protection;
- The surveyed respondents have the feeling that the person in contact with the Inspection is more of an employer and less of an employee.

Factors affecting the effectiveness of Labor Inspection

- The number of re-inspections conducted to correct violations identified on the basis of the Labor Code is small.
- The deadline set by the Inspection for the correction of the violation is usually stereotyped and in many cases does not have a logical relationship with the content of the violation.
- During the inspection, the questions asked by the inspector do not always correspond to the specifics of the workplace, as well as the severe situation and violations in the workplace.

CHAPTER

1

Factors
influencing
the trust
in Labor
Inspection

Factors influencing the trust in Labor Inspection

The strengthening of the Labor Inspection as an independent and reliable institution is of great importance, first of all for the employees. Inspection independent of politics or business interests is attractive to employees as a mechanism for protecting their rights. At the same time, a reliable Labor Inspection creates a certain hopeful mood for the employees, because the employee is not left alone, in the face of the stronger party - the employer - who has the power to negotiate. The issue of trust is particularly important, because the Labor Inspection was abolished in 2006 due to corruption and mistrust of employees⁶, thus, identification of factors influencing the issue of trust and their assessment during the inspection process is crucial both for organizations working on labor rights and for the Inspection, because the collection and analysis of these factors will allow the Inspection to attract more employees and, therefore, to create prerequisites for the identification and elimination of a wide range of labor rights violations.

The conducted survey shows that there is a lot of work to be done in this direction. A survey of member organizations of the “Fair Labor Platform” revealed that their members and employees associated with them often refrain from filing complaints or reporting a violation in any other form because they are afraid of losing their jobs and being identified as whistleblowers. In our report, this issue is discussed even more acutely because during the research, cases of revealing the identity of the applicant to the employer during the inspection have been recorded. For those employees who still decided to overcome the mentioned obstacle and file a complaint with the Inspection, significant challenges were revealed in the part of objective presentation of their rights and interests directly in the inspection process and consideration of their interests equally with the interests of the employer on the part of the inspection.

This chapter analyzes the factors weakening trust in the Inspection among the interviewed respondents, which is reflected in the reluctance to apply to the Inspection and the lack of confidence in this instrument.

6. “History of Labor Inspection in Georgia”. October, 2021. “Publika” publication. Available at: <https://publika.ge/blog/shromis-inspeqciis-istoria-saqartveloshi-ras-moicavs-samsakhuri-gazrdili/> Last viewed: 30 October, 2023

1.1. According to the interviewed respondents, some employees refrain from reporting a complaint or notification in the Inspection

Legislation defines several forms of reporting of labor violations in the Inspection by the employee or other persons, however, the main requirement is that any identifiable person can report the violations provided for in the law on “Labor Safety” to the Inspection.⁷

The Inspection may make an inspection decision based on a complaint from an “interested person”. The law recognizes as such a person directly the employee whose labor right was violated, or another employee who works for the same employer and for whom the fact of violation of the labor right against the employee became known; also, the applicant can be the association of “professional connections” and the Office of the Public Defender of Georgia.⁸

” According to the respondents interviewed within the research, the form of filing a complaint defined by law, which considers the notification of violation only based on the identification of the applicant or employee, creates barriers for employees to apply to Inspection.

Employees, for fear of losing their jobs, often refrain from reporting violations to the Inspection. In this matter, the representative of the Inspection considers that the identification of the applicant is an important source for the Inspection to determine the justification of the observed violation or notification; according to them, the appeal of citizens to the Inspection, compared to previous years, has increased significantly and the mentioned regulation does not represent an obstacle to appeal to the Inspection. However, according to the 2022 report of the Labor Inspection, a total of 231 complaints of citizens were submitted to the Inspection with the request to establish the violation of labor rights, and according to the 2021 report, the mentioned figure was 164 complaints⁹ In 2021, inspections were carried out based on a total of 36 of received complaints, and in

7. Law of Georgia on Labor Inspection, Article 13, Part “d”.

8. Law of Georgia on Labor Inspection, Article 3, Part “d”.

9. 2022 and 2021 reports of Labor Inspection activities. p. 32 and 34. Available at: [https://lio.moh.gov.ge/editor/upload/20230228043207-2022%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97\).pdf](https://lio.moh.gov.ge/editor/upload/20230228043207-2022%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97).pdf) and at: <https://lio.moh.gov.ge/report/2021.pdf> Last viewed 9/10/23

2022, on 163,¹⁰ in the period from January 1 to June 30, 2023, a total of 19 complaints were recorded on labor safety issues, and on the issue of labor rights, we do not have an exact figure, as the Inspection provided us with a summary of the number of complaints related to labor rights and the special decree intended only for medical workers¹¹, which constitutes 142 complaints.¹² Judging by the ratio of the number of complaints recorded over the years, to the number of workplaces inspected in the same years, (2021-695; 2022-1147, 2023 (January-June)-963) the applications for inspection are increasing, although not very high. The Public Defender also draws attention to the passivity of the employees in the Inspection. The parliamentary report of 2022 mentions that “despite the frequency of violations of labor legal norms by employers, the amount of complaints submitted by employees to the Labor Inspection in this direction is small. In 2022, the calls initiated by employees to the hotline of the Labor Inspection Advisory Service accounted for only 14% of all calls.¹³

Considering the wide scale of violations of rights by employers in Georgia¹⁴ it is important to introduce reliable and flexible formats for filing complaints for employees. This may be implemented within the framework of the existing legal framework. According to the legislation, the Inspection is authorized to initiate an inspection/investigation on its own initiative, based on mass media, press, online announcements and other types of disseminated information.¹⁵ Although the person carrying out the inspection is obliged in this process to investigate the identity of the person making the notification as far as possible,¹⁶ an increase

10. 2022 and 2021 reports of Labor Inspection activities. p. 32 and 34. Available at: [https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20\(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97\).pdf](https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97).pdf) and at: <https://lio.moh.gov.ge/report/2021.pdf> Last viewed 9/10/23

11. “On some measures to be implemented for the transition to universal health care” on the supervision of the minimum hourly wage determined by the Resolution No. 36 of the Government of Georgia.

12. Public information letter from the Labor Inspection to the non-entrepreneurial non-commercial legal entity “Center for Law and Public Policy”; August 4, 2023. Letter number: LIO 0 23 00828160a (

13. The 2022 parliamentary report of the Public Defender of Georgia. page 237. Available at: <https://ombudsman.ge/res/docs/2023033120380187763.pdf> last viewed: 19.10.2023

14. According to the 2022 parliamentary report, the Ombudsman clearly points to the systematic disregard of labor law norms and inspection guidelines by employers. Special Report of the Public Defender of Georgia. 2022.

15. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 7. Section 4

16. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of

in the number of inspections carried out on the basis of non-identified applications can be encouraged. On the other hand, the identification of the applicant is an important source for the Inspection to determine the legitimacy of the complaint, so a discussion on this topic may be opened, taking into account the experience of the Inspection, to introduce other, more flexible and reliable mechanisms for reporting and recording the application.

1.2. The inspection process failed to protect employee privacy

Activation of the use of Labor Inspection as an important rights protection mechanism should be done by building trust in this institution among employees. This will become possible if the employees have a solid feeling and guarantees that their confidentiality will be reliably protected, primarily from the employer, when applying to the Inspection about the violation, or during the inspection itself, when providing information. The obligation to keep confidential the identity of both the complainant and the employees interviewed for inspection purposes is strictly required by law.¹⁷ During the research, the representative of the Labor Inspection during the interview excludes the existence of cases of identification of employees. According to him, not only is the applicant's confidentiality strictly protected, but the employer does not even know whether the inspection was initiated based on the complaint or on the basis of other information obtained by the Inspection. A survey of respondents in this report reveals a different reality.

” The survey of the member organizations of the “Fair Labor Platform” shows that the fear of identifying the applicant is not without grounds. During the research, two cases were identified in which the employer learned the identity of the applicant employee after the inspection. One of them became a victim of persecution and harassment at the workplace; in one case, the employee had to leave the job for the same reason. In addition, some of the interviewed employees stated that they clearly did not receive information about the guarantees defined by the law related to the protection of confidentiality, which

the rules and conditions of entry and inspection at facilities subject to inspection. Article 7. Section 6, subsection “a”.

17. Law of Georgia on Labor Inspection. Article 19.

is why, in the process of interviewing employees, making an audio-video recording by the Inspection created fear and distrust towards the inspection process.

According to the information received from the Inspection, the obligation to protect the confidentiality of employees is spelled out by legislation, and during the inspection process, the Labor Inspector is guided and bound by these legal provisions.¹⁸ However, in the same letter, the Inspection explains that “during the supervision of the facility, interviews with the employees are carried out by the labor inspectors in the presence of the employer and/or the representative of the employees in matters of labor safety (if any) or without them”.¹⁹ Interviewing the employee in the presence of the employer completely negates the existence of the legal obligation to protect confidentiality on the part of the inspector, even if it is carried out thoroughly. In such a case, the employee does not feel safe, and is limited in fully reporting critical non-conformances or violations at the place of employment, for fear of dismissal or retaliation by the employer.

The results of the survey show that the fulfillment of the legal obligation of the inspector to protect the confidentiality of employees is not a sufficient mechanism and it is necessary to introduce and use such mechanisms for the protection of whistleblower employees on the part of the Inspection, which, in addition to the Inspection, binds the employer as well. In addition, it is necessary to conduct interviews with employees in conditions of strict confidentiality, in reliable and quiet space for employees. The mentioned space must be strictly protected from the presence of the employer or the employer’s representatives. Also, it is important for the Inspection to fulfill its obligation to clearly and accurately define the legal obligations related to confidentiality and the rights of employees.

In addition to the above, in order to ensure the reliability of the inspection process, it is additionally important to introduce and use such mechanisms, which, despite the use of whistleblower employee protection mechanisms, even if the identity of the employee is still identified, would create guarantees for his/her safety and protection at the workplace, prevent revenge and other improper treatment by the employer.

18. Public information from the Labor Inspection. November 8, 2023. Letter number: LIO 2 23 01191528

19. Public information from the Labor Inspection. November 8, 2023. Letter number: LIO 2 23 01191528

1.3. The surveyed respondents have the feeling that the person in contact with the Inspection is more an employer and less an employee

According to the legislation, in the process of workplace inspection, both employers and employees participate together with labor inspectors. The labor inspector himself/herself decides from whom to obtain important information related to the inspection.²⁰ In addition, the legislation determines that the participation of the authorized representative in the inspection process is the obligation of the facility to be inspected.²¹ The representative of the Inspection connects the selection of employees to be questioned in the interview (including on the basis of the staff list) only to the exclusive authority of the inspector. In addition, according to the information received from the Inspection, “the labor inspector makes a decision on the persons involved in the survey of employees during the inspection”, ***the survey conducted as part of the study shows that this process in practice gives employees the feeling that the employer is the main person in contact with the Inspection.***

According to the respondents, inspectors mainly communicate with employers, which violates the possibility of equal, balanced involvement of both parties in the inspection process. Moreover, the survey shows that the employer often uses this process against employees, in particular, by using various unfair tactics, he/she submits employees loyal to the employer to the Labor Inspection for questioning, including by excluding critical employees from the inspection process. It is obvious that the need to balance the employer, as a strong party with more resources and negotiation power, cannot be achieved only by the mechanism of individual selection of interviewers, and it is important that the Inspection pays attention, in the process of inspection, to introduce other mechanisms of representing the interests of the employees no less than of the employer’s and on the need of further active use, also, the implementation of mandatory survey mechanisms for employees critical in relation to the employer or employees who are members of the trade union, which in turn would give employees the feeling that the inspection process is carried out as a result of an equal and fair, balanced participatory process.

20. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 17.

21. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 17. Part 2

CHAPTER 2

Analysis
of factors
affecting the
effectiveness
of the labor
inspection
process

Analysis of factors affecting the effectiveness of the labor inspection process

The effectiveness of Labor Inspection activities is directly proportional to the detection of a wide range of labor violations in the country and timely and flexible response to them. In addition, the activity of the effective Labor Inspection, taking into account the needs and the greatest challenges in the field of labor rights, would be meaningful in itself and would create prerequisites for high confidence among employees.

This chapter discusses the effectiveness of the inspections carried out by the representatives of the interviewed organizations, their members and beneficiaries, as well as within their representation, within the framework of the accumulated experience of these organizations; it also analyzes the several factors that were named by the interviewed respondents as hindering the effectiveness of the current inspection process within the framework of their observation.

The research shows that the biggest challenge is the passive implementation of re-inspections in terms of correcting labor rights violations, due to which serious labor violations identified during the initial inspection may remain unaddressed despite being identified. The survey also shows that in some cases, the inspection does not take into account the specifics of the checked employment site, and it was also revealed that the deadline for the correction of violations was determined in such a way that it did not envisage the reasonable time required for the correction of the violation.

2.1. The small number of re-inspections related to labor rights is problematic

According to the legislation, the Labor Inspection establishes the protocols of violations to identify violations revealed after the inspection of the facility and to determine the form of responsibility. Statistics show that in the case of the initial inspection carried out by the Inspection and the discovery of a violation, a warning to the offending employer is usually used as a measure of responsibility, and less often, a fine and other mechanisms are applied (suspension of the operation of the enterprise, etc.). According to the 2020-2022 statistics of the Labor Rights Monitor, which is based on the protocols provided by the Labor Inspection, out of

11,613 detected violations, the Inspection applied fines for a total of 200 violations, and suspension of activity for only 31 violations.²² According to the 2022 report of the Inspection itself, 61% of the applied responsibility measures were limited to warnings.²³ A warning is a period established for the correction of violations, during which the corrected violation will no longer be subject to the application of fines and other heavy liability measures. The legislation determines that the notice period should be determined according to the principle of reasonableness.²⁴ After the expiration of a reasonable period of warning, the Inspection will re-inspect the facility and the issue of compliance with the instructions issued during the previous inspection. If during the re-inspection it is found that the detected violation has not been eliminated, the Labor Inspection will consider the issue of aggravation of the employers' responsibility.²⁵ Thus, according to the legislation, inspection of violation elimination (re-inspection) is the only mechanism for correcting the already identified violation.



During the interview, the Labor Inspection stated that it uses the re-inspection mechanism in all cases, immediately after the expiry of the specified period. **However, research conducted for the purposes of the report shows that the number of re-inspections carried out to correct violations identified under the Labor Code is low. The majority of interviewed trade unions and lawyers of organizations state that the Inspection has not carried out a re-inspection at their place of employment, despite numerous requests or sending a reminder letter in an official form.**

In the 2022 report of the Labor Inspection, the number of initial and repeated inspections carried out is presented as a summary, and it is not shown how many initial and how many subsequent re-inspections were carried out. According to the report, in 2022, 2,510 inspections were carried out in the field of labor safety, and 1,024 inspections were

22. See Labor Rights Monitor: <https://shroma.ge/monitor/?lang=ka§or=®ion=&violation=&type=&accident=&penalty=&status=&date=>, Last viewed: 19.10.2023

23. Report of 2022 of the Labor Inspection. Page 22. Available at: [https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20\(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97\).pdf](https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97).pdf) Last viewed: 10.10.2023

24. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 5.

25. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 6.

carried out during the inspection of the rights stipulated by the Labor Code.²⁶ According to additional information provided by the Inspection, from January 1 to June 30, 2023, 963 primary facilities were inspected in terms of labor safety. According to the information of the Inspection, unscheduled re-inspection was carried out for 143 facilities.²⁷ In this data, the number of inspections of the norms stipulated by the “Labor Code” is not separated from the special inspections subject to medical regulations. Thus, the given information does not provide a real picture of the scope of re-inspections, however, it creates an assumption that the scope of re-inspections for the correction of violations of labor conditions in the specified period of 2023 may be even smaller, as it is stated in the public information letter that in most cases, paperwork is ongoing and re-inspections have not yet been carried out. According to the 2022 report of the Labor Inspection, compared to 2021, there is a 24% increase in the number of inspected facilities that fully corrected violations at the first inspection.²⁸ However, similar to the 2023 data, the number of enterprises inspected in 2021 is aggregated with the number of inspections specific to the Covid-19 regulations. Thus, 2021 inspection numbers, cannot be used as relevant comparators.

The low number of re-inspections is also confirmed by the protocols provided by the Inspection, uploaded to the Labor Rights Monitor. In particular, for the purposes of the research, we checked the protocols drawn up and sent as a result of the inspection of labor rights. (The number of checked protocols is 143 protocols, references or inspection acts). The mentioned protocols were provided by the Inspection as a result of public information request. In response to the request, it was noted that all protocols, references and inspection acts drawn up from April 1 to September 30, 2022 were provided.²⁹ By checking the protocols, it

26. 2022 Report of the Labor Inspection. Page 5. Available at: [https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20\(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97\).pdf](https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97).pdf) Last viewed 19.10.2023

27. Public information letter from the Labor Inspection to the non-entrepreneurial non-commercial legal entity “Center for Law and Public Policy”; August 4, 2023. Letter number: LIO 0 23 00828160

28. Annual Report of the Labor Inspection 2022. Page 5. Available at: [https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20\(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97\).pdf](https://lio.moh.gov.ge/editor/upload/20230228043207-2022%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98%20(%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97).pdf) Last viewed 19.10.2023.

29. Public information letter to non-entrepreneurial non-commercial legal entity “Center for Law and Public Policy”. October 13, 2023. # LIO22301090566

is confirmed that out of 143 protocols, despite the expiration date, the act of inspection (re-inspection) is presented only in two cases.³⁰

The situation is relatively better, in the case of protocols drawn up as a result of labor safety inspection, where re-inspections are mostly performed, however, in some cases, they are not carried out even here, despite the expiry of the deadline.³¹ Considering that re-inspection is the only mechanism for correcting an identified violation, this problem greatly affects the effectiveness of Labor Inspection activities, because despite the identification of a violation, it leaves unresponsive both its elimination and the need to hold the offender accountable. The measure of the effectiveness of the inspection activities is adjusted to the mechanisms of elimination of the observed violations, therefore, in order to eliminate the violation of labor norms during the activity of the inspection, it is important to substantially increase the number of re-inspections and in this regard to activate the activity of the Inspection, to strictly observe the deadlines for re-inspections and in this way, to give real content to the responsibility of the violating employers.

In addition, in order to objectively measure the real scale of re-inspections, it is important to distinguish between the number of initial and subsequent re-inspections in the provided public information and inspection reports; also, the number of inspections of specific industries or specific regulations should be clearly distinguished from the inspections of general norms for all industries and specific jobs.

2.2. The deadlines set for remedying the violation are stereotyped and often do not fit the content of the violation

The legislation determines that the Labor Inspection, in order to describe the violations revealed as a result of the inspections, establishes the appropriate protocol, in the same document it defines a reasonable period for the elimination of the established violation to the employer.³²

30. See labor rights monitor: shroma.ge inspection number: 003514 • Date of inspection: 25.03.2022 also inspection number: 003512
Date of inspection: 24.03.2022

31. See the results of the Labor Rights Monitor. Last viewed 19.10.2023. <https://shroma.ge/monitor/?lang=ka§or=®ion=&violation=&type=&accident=&penalty=&status=&date=>,

32. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 23. Part 3.

The period of correction of the violation established during the inspection may be agreed with the parties, both the employee and the employer, taking into account the content of the violation and the reasonable period necessary for the implementation of corrective measures.³³ From the interview of the Labor Inspection, we learn that the observance of these provisions is carried out very precisely, because the deadline for the correction of the violation is determined depending on the complexity of the violation. In the process of determining a reasonable term, according to the Inspection, both parties are involved - the employer and the employee. According to the information provided by the Inspection, the issue of determining a reasonable period of time with the offender for the purpose of correcting the violation is determined and noted in the relevant protocol signed by both parties based on the consultation with the employer, the labor safety specialist and the representative of the employees in labor safety issues (if any).³⁴ However, the survey conducted for the purposes of the report shows that ***the deadline established by the Inspection for the correction of the violation is usually stereotyped and does not have any logical relationship with the content of the violation.*** Also, based on the data of the labor rights monitor, the employee's signature regarding the deadline for correcting the selected violation is not recorded. As a result of the inspection carried out at the workplace of one of the employees in the process of legal consultation with the Fair Labor Platform, the Inspection revealed such violations as not giving the employee time off; also, violation of the right to 24 hours of rest after 7 days of consecutive work when working in shifts. The severity of the violation reached the practice of working for 14 days in a row. In order to correct these violations, the Inspection gave the employer a period of 30 calendar days, which is clearly incompatible with the content of the identified violation. In addition, the employee notes that this term was not the subject of an agreement with him/her, which is confirmed by the fact that the violation of the right guaranteed by law for this employee, despite the inspection by the Labor Inspection, continued for at least 30 calendar days, and therefore, it could not serve the employee interests, or position.

The labor rights monitor also exposes the practice of setting stereotyped deadlines to correct the violation. According to the data of the monitor, most

33. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 5. Part 2; Subsection "j"

34. Public information from the Labor Inspection. November 8, 2023. Letter number: LIO 2 23 01191528

often, for the correction of violations of different contents and severity, one term - 30 days is established. Sometimes there is also a 14-day term.

Based on the above, in order to determine the necessary deadlines for the correction of identified violations, the observance of which is not related to the time period and the employer's obligation is the same, on the basis of the legislation, the Inspection should be guided by the interest of the employee, the legislation and develop the appropriate mechanisms to eliminate the violation immediately, upon discovery, use fines and other forms of coercion to ensure the aforementioned. In cases where a certain period of time is objectively required to correct the violation, the Inspection shall determine the said period, as a result of real consultation with the parties, according to the content and severity of the violation.

2.3. It is problematic to take into account the specifics of the work of the facility to be inspected during the inspection process

The legislation empowers the Labor Inspection to develop and implement special measures for heavy, harmful and dangerous (construction sector) as well as other hazardous workplaces.³⁵ The legislation does not regulate the aspects of consideration of other types of job specifics in the inspection process, however, an interview with the Labor Inspection reveals that the Inspection uses special questionnaires drafted before entering the facility to take into account the specifics of their sector and work at workplaces. According to the additional information provided by the Inspection, the labor inspector searches and processes information about the facility before the inspection. And, the inspection of workplaces with different work specifications is carried out directly taking into account the specified specifications according to the legal norms in force in the country.³⁶

“ However, as part of the survey conducted for the purpose of the report, it is revealed **that during the inspection, the questions asked by the inspector do not always correspond to the specifics of their workplace, as well as to the serious situation and violations in their workplace;**

35. Resolution #99 of the Government of Georgia dated February 10, 2020 on the approval of the rules and conditions of entry and inspection at facilities subject to inspection. Article 14, Part 2.

36. Public information from the Labor Inspection. November 8, 2023. Letter number: LIO 2 23 01191528

One of the employees' representatives recalled the case when the Inspection that entered the facility for the real reasons for the strike and response to the strike, was interested in the presence of vibrating gloves at the workplace, while over the years the harshest working conditions at the said facility have been confirmed by numerous surveys, strikes and protests, consequently, questions intended for scheduled inspection would not be adequate to the context and severity of violations.³⁷

Another case was revealed during the investigation, when the Inspection failed to identify safety violations related to the disinfection of the clothes and equipment of the employed medical workers simply because the inspectors did not have the knowledge of the field. During the survey, the concerns of other employees involved in the inspection process were revealed, regarding the non-consideration of the specific norms of their work during the inspection process, in particular, in relation to non-consideration of specific norms of work load.

According to the representatives of the interviewed organizations, inspectors often ask stereotyped questions, which cannot cover in detail the concerns of representatives of individual professions, including - medical field, social workers, or workers employed in other fields; therefore, it is of the utmost importance that the Labor Inspection thoroughly studies the specifics of the work of the field or structure, and the publicly available sources and information on the facility, which it intends to inspect, and based on this knowledge, the development of an individual type of questionnaire.

37. Center for Social Justice. What are the miners demanding in Chiatura and why are their demands fair. "According to research by the Center for Social Justice, workers in the Chiatura mine have to move heavy equipment by hand (120-130 kg of stuff - for two people); in some mines, there is standing water, from which, due to the water level, special shoes cannot protect them, and the water pump is of poor quality; mining pressure levels are not controlled in mines; tractors are broken and emit emissions, and the water system that is supposed to reduce emissions is broken; the dust concentration is not measured after the explosions, the ventilation system is faulty, the safe distance from the explosion is not established, etc." June, 2023. Available at: <https://socialjustice.org.ge/ka/products/ras-itkhoven-magharoelebi-chiaturashi-da-ratom-aris-mati-motkhovnebi-samartiani> Last viewed 19.10.2023

> Recommendations

Factors affecting trust in Labor Inspection:

- Considering the wide scale³⁸ of violations of rights by employers in Georgia, it is important to introduce reliable and flexible formats for filing complaints for employees.
- The Inspection should introduce and use such mechanisms for the protection of the employees participating in the inspection process, which, in addition to specific Inspector, will bind the employer as well. In order to ensure the reliability of the inspection process, it is additionally important to introduce and use such mechanisms that, despite the use of protection mechanisms for the employee participating in the process, even if the identity of the employee is identified, it would create guarantees for his/her safety and protection at the workplace, and prevent cases of improper treatment by the employer.
- It is necessary to conduct interviews with employees in conditions of strict confidentiality, in reliable and protected space for employees. The mentioned space must be strictly protected from the presence of the employer or the employer's representatives.
- It is important for the Inspection to fulfill its obligation to clearly and accurately define the legal obligations and rights of employees related to confidentiality.
- It is important that the Inspection should pay attention, during the inspection process, to the introduction and use of the mechanisms of representing the interests of the employees, no less than the employer, as well as on the introduction of mandatory survey mechanisms of the employees who are critical of the employer, or the employees who are members of the trade union.

38. According to the 2022 parliamentary report, the Ombudsman clearly points to the systematic disregard of labor law norms and inspection guidelines by employers. Special Report of the Public Defender of Georgia. 2022.

Factors affecting the efficiency of Labor Inspection:

- It is essential to substantially increase the number of re-inspections carried out in order to eliminate violations of labor norms in the course of the inspection activity, to strictly observe the deadlines for re-inspections, and in this way, to give real content to the responsibility of the violating employers.
- In order to objectively measure the real scale of re-inspections, it is important to distinguish the number of initial and subsequent re-inspections in the provided public information and inspection reports; also, the number of inspections of specific industries or specific regulations should be clearly distinguished from the inspections of norms stipulated by the Labor Code.
- In order to determine the terms necessary to correct the identified violations, the observance of which is not related to the time period and the employer's obligation is the same, on the basis of the legislation, the inspection should be guided by the interest of the employee and, through negotiation with him/her, develop appropriate mechanisms to eliminate the violation immediately, upon discovery.
- In cases where a certain period of time is objectively required to correct the violation, the Inspection should determine the said period, as a result of real consultation with the parties, according to the content and severity of the violation.
- It is of the utmost importance that the Labor Inspection thoroughly studies the specifics of the work of the field or structure, as well as the publicly available sources and information on this facility, which it intends to inspect, and based on this knowledge the development of an individual type of questionnaire.



Summary

The findings gathered in this report are an attempt to describe the experience of the organizations united in the “Fair Labor Platform” and it is important because it reveals, at least in part, the obstacles to the effectiveness of the institution as a protection of employees, guaranteeing their interests in the workplace.

In Georgia, due to the history of labor rights and the impact of deregulation policy, it is important to consider the vulnerable situation of employees, because the employee is alone in the face of the employer as the owner of the bargaining power and the disposer of voluminous resources. Consideration of the mentioned context should be the starting point of both national legislation and Labor Inspection activities.

Revealing important findings, such as the factors hindering application to the Inspection and reducing the confidence of employees in the inspection process, should become the subject of deliberation and discussion of the Labor Inspection and to solve them, including the research of the experience in international practice and the creation of preconditions for implementation on site.

We think it is important for the Inspection to implement such mechanisms that will make it more effective and reliable when inspecting labor conditions and safety, including imposing reasonable and quick liability measures against offenders, actively conducting re-inspections and in-depth study of the specifics of the enterprises to be inspected, during the inspection process, enterprises and employment by taking into account the full scope of the specifics of the places.

The findings and related recommendations in this study are our small contribution as labor rights advocates and labor rights organizations in the process of making the Inspection an independent, strong and effective mechanism. We hope that this report will open further discussion in the direction of analyzing, deepening the findings of the report and implementing our recommendations in practice, because the report is dictated by a sincere desire to continue cooperation in this matter and a willingness to work.

