

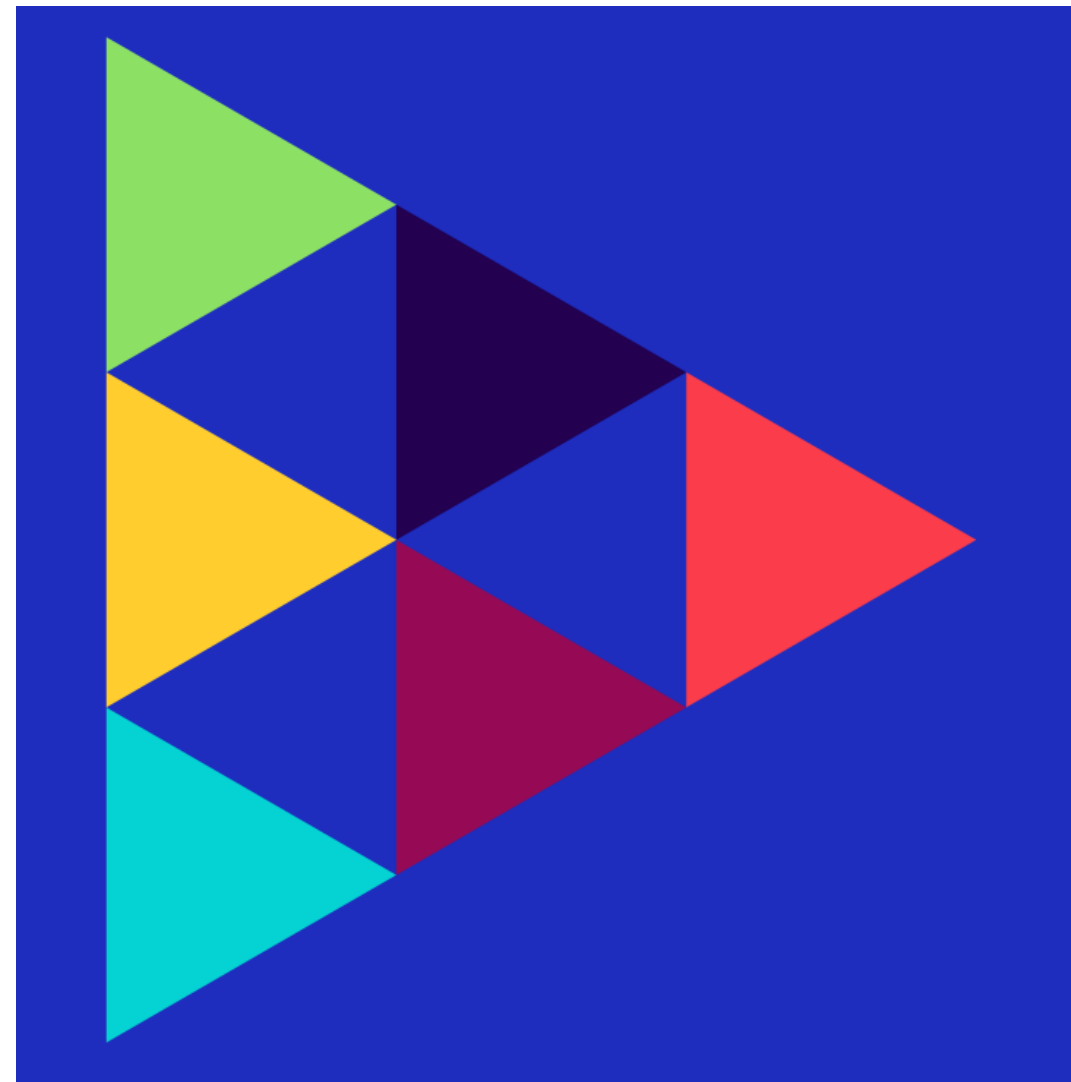
ILO Guidelines on General Principles of Labour Inspection

Brief introduction

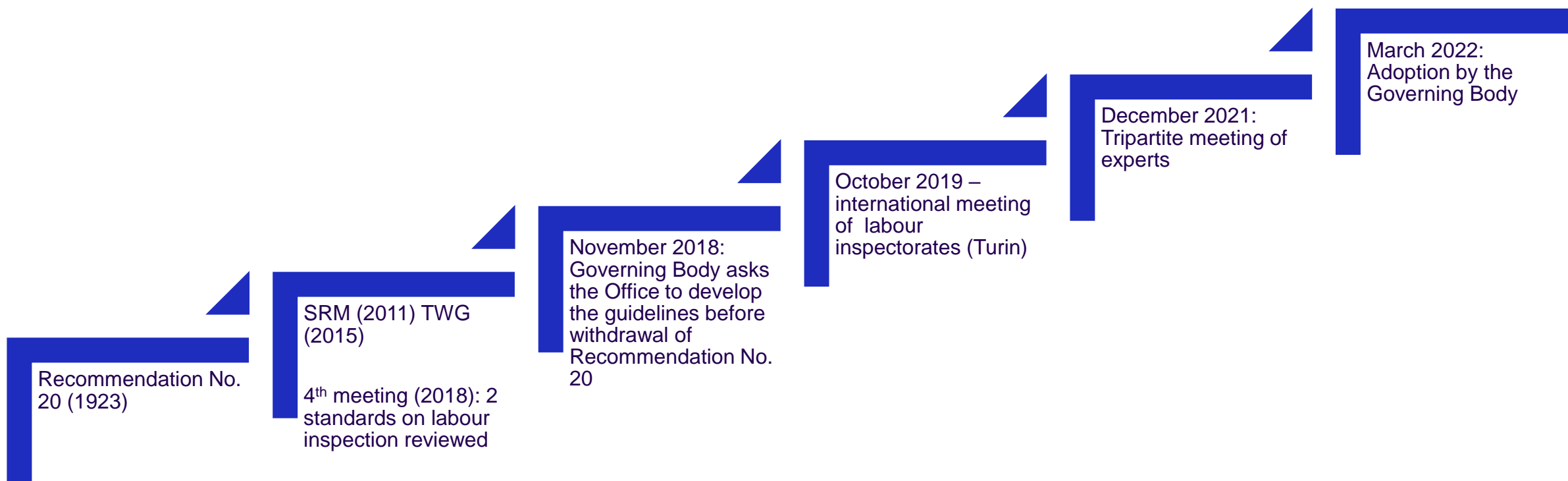
Joaquim Pintado Nunes

Branch Chief

International Labour Organization



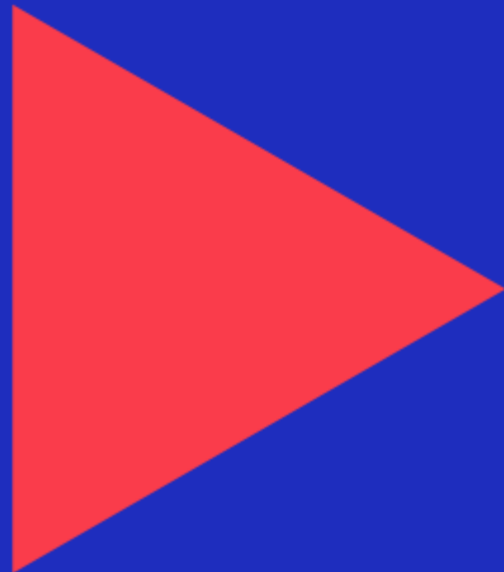
ILO Labour inspection guidelines – Background





1

Scope and functions

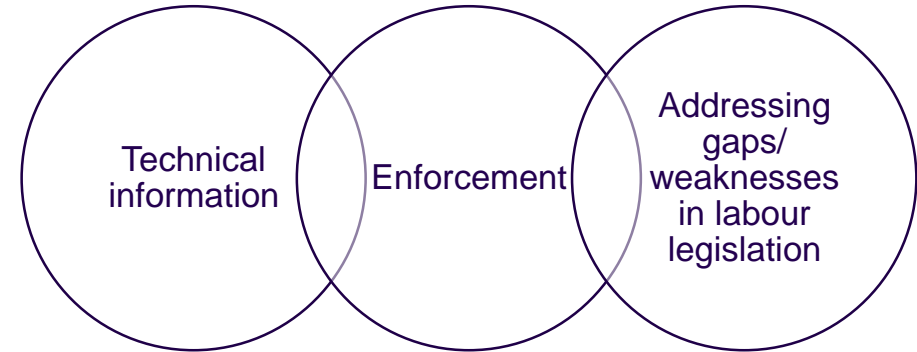


MANDATE OF LABOUR INSPECTION

«all workers in all sectors»

*The mandate of labour inspection should apply equally to **all workers and all workplaces** in all sectors, whether **private or public**, in **rural and urban** areas, in the **formal and the informal economy**, in respect of which **legal provisions relating to conditions of work and the protection of workers while engaged in their work** are enforceable by labour inspectors.*

The functions of labour inspectors



Labour inspectors should not be assigned subsidiary or additional tasks. Governments should not give them any additional powers or responsibilities.

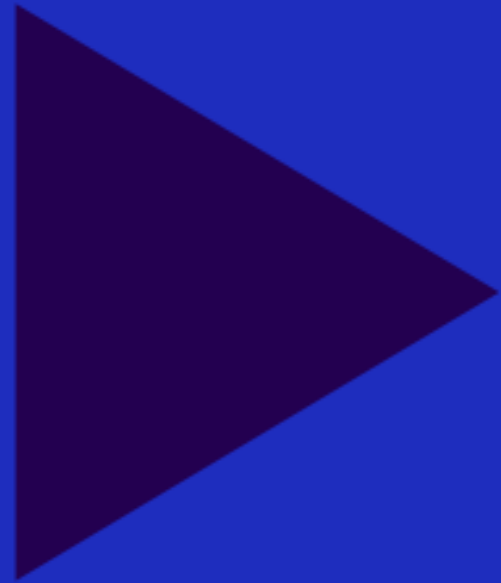
The functions are indivisible,
complementary
and instrumental for the
effectiveness of labour legislation





2

Structure and organization



The public administration structures in charge of labour inspection should be placed under the direct and exclusive control of a central state authority – account being taken for the specificities of Federal States

Central authority

Central authority should, in consultation with social partners, facilitate:

- definition and implementation of a coherent inspection policy
- integrated global strategy for the entire national territory

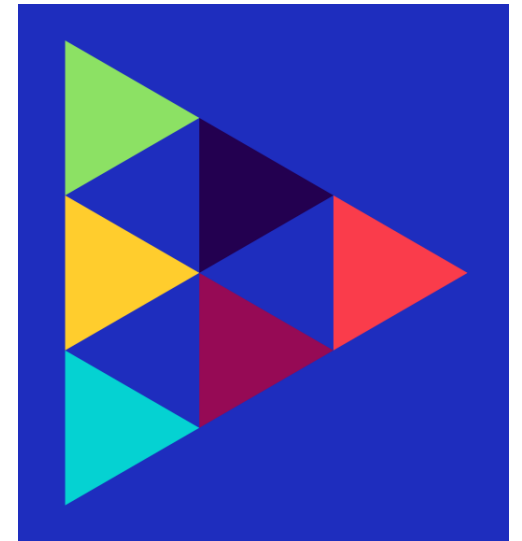
The operational policies and priorities of inspectorates should be defined on the basis of needs, risks and levels of non-compliance

Coordination

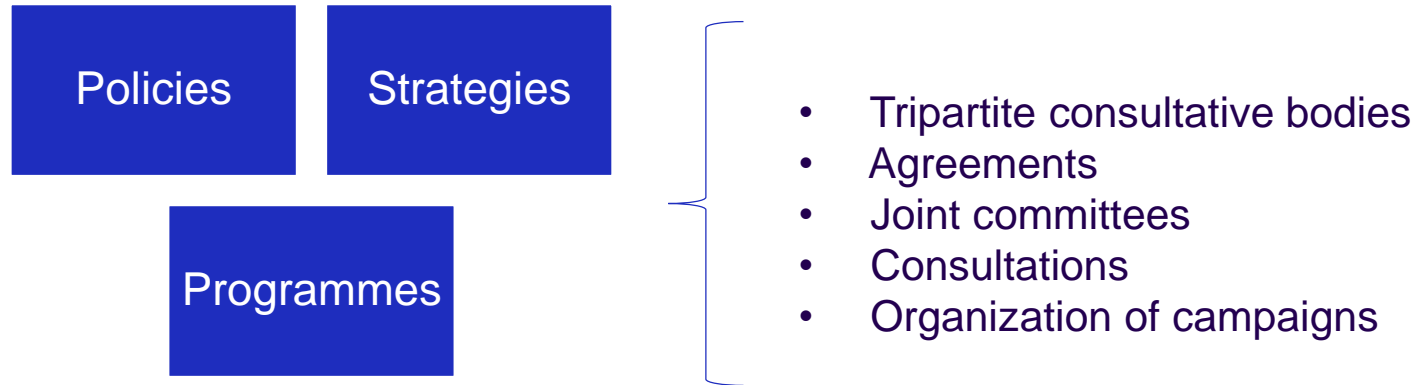
Cooperation between labour inspectorates and other authorities with responsibilities for monitoring and inspecting workplaces should be established:

- for best use of resources
- avoid unnecessary multiplication of inspection visits
- pursuit common objectives

Judicial system: Accent on follow-up of cases



COLLABORATION WITH SOCIAL PARTNERS



At the workplace: Ensure the impartiality, authority and safety of labour inspectors

Labour inspection should remain an independent public prerogative

Voluntary forms of regulation are not a replacement of labour inspection





3

Policy, planning and monitoring



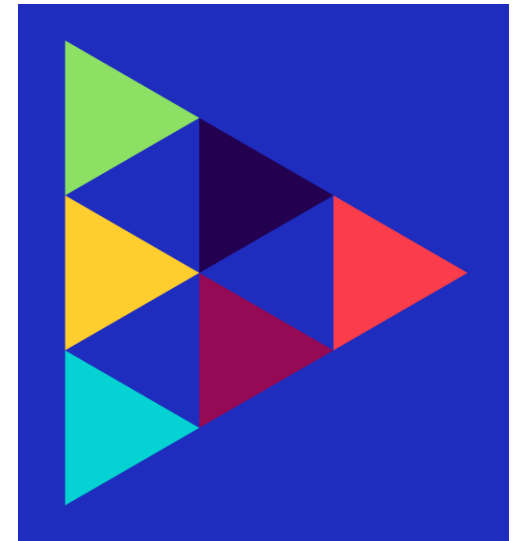
Labour inspection policy

**Should
include at
least:**

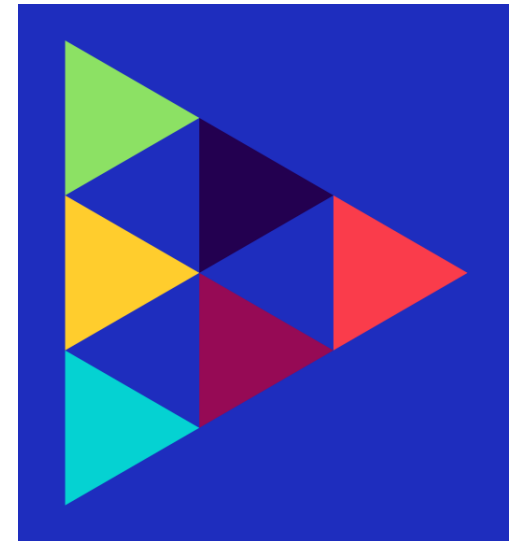
- Reference to principal and additional duties
- Provisions to ensure labour inspectors time is used to visit workplaces
- Criteria for frequency of inspection visits
- Procedures applicable to special visits, large establishments, SMEs, and workplaces with unsatisfactory safety and health
- Procedures for follow-up visits
- Need of individual inspection reports and general annual reports
- Integrity measures
- Procedures for securing the full cooperation of employers and workers and their organizations

Planning, programming and reporting cycle: Fundamental for the effectiveness of the inspection activity

Participatory process of developing and setting objectives, firstly through consultation with social partners, and then with different administrations with competences in the matters subject to planning



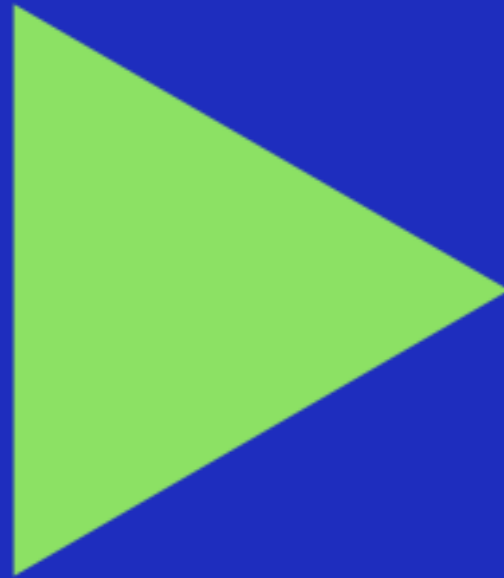
- Labour inspectorates must have **access to the data** held by other institutions that is relevant for the inspection tasks (with due respect for privacy)
- The central inspection authority should assign to inspectorates, local offices or regional inspection services the obligation to submit **periodical reports** and prescribe its frequency, that shall not be less than once a year
- It should be encouraged to make a summary or detailed **report of each visit** made by labour inspectors
- The final individual inspection report should be **factual** and contain the findings, their relevance in terms of regulatory compliance and the outcome of the inspection visit
- When requested through **formal channels**, in accordance with national legislation, the report should be shared with the employer and, where they exist, workers' representatives at the workplace.



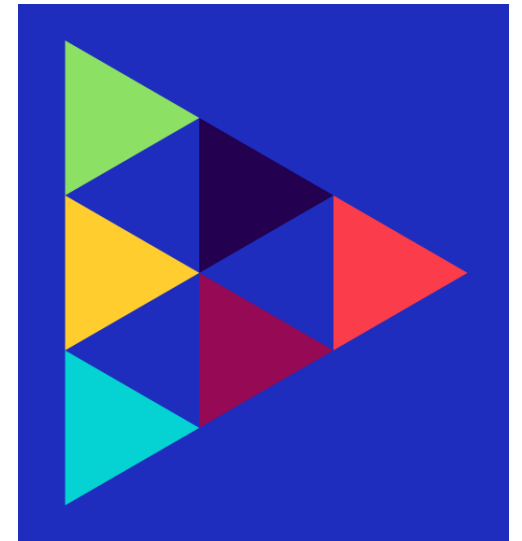


4

Status and careers

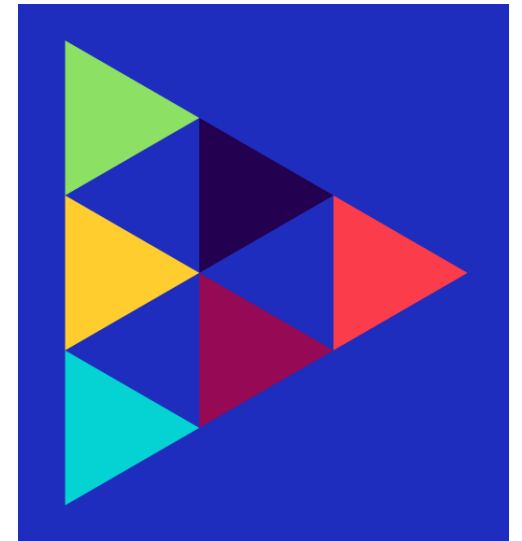


- Impartiality and independence must be safeguarded at all times
- Civil servant status is the most appropriate for this purpose
- This status is compatible with the establishment of a probationary period before employment on a permanent basis.
- The non-politicisation and independence of labour inspectors consists of ensuring technical and functional autonomy in making decisions about inspection activities and priorities.
- This independence and autonomy is perfectly compatible with due respect and observance of instructions, circulars, standard operating procedures and technical criteria issued by the hierarchy (...)



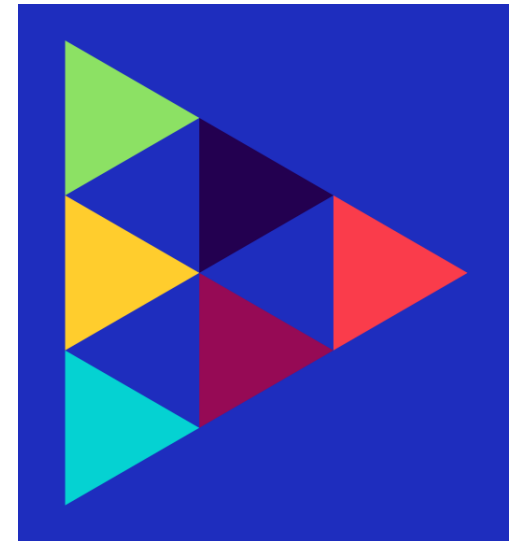
- The recruitment process of labour inspectors should be based on the principles of **transparency, equality, merit and ability**
- The procedure for recruiting labour inspectors should be the same applicable to the **public service**, with due adaptations to the specificities of the function
- **Positive discrimination/affirmative action** for candidates belonging to under-represented groups may be adopted
- Successful candidates for a position as a labour inspector should go through a **probationary period**, after which they should sit a final examination or any other means of assessment of competence in order to be permanently appointed
- Recommended that **experts** are employed as inspection staff + protocols and cooperation agreements to have access to high-quality and independent expertise outside the labour inspection function

Recruitment and specialized functions



Training

- The labour inspection system must draw up and develop a policy and a training programme based on a prior analysis of training needs and resulting in a training curriculum
- Access to high-quality training facilities, such as a national school, or structural collaboration with universities and/or specialised institutions, is recommended.
- Initial training should include a theoretical component and a practical component, with a minimum duration commensurate with the level of technical and regulatory knowledge required
- Training must be periodically supplemented, updated and improved in order to update competences



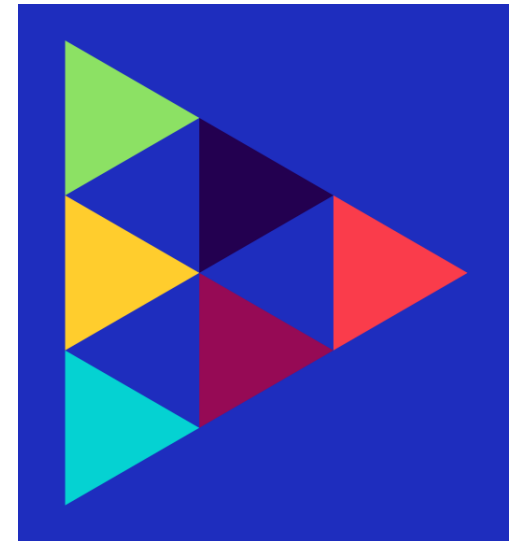
Labour inspectors should:

- be prohibited from having any direct or indirect **interest** in the companies under their supervision
- be bound **not to disclose**, even after their duties have ceased, any manufacturing or trade secrets or work processes that they may become aware of in the course of their duties
- treat the source of any complaint as **absolutely confidential** and not disclose such complaints to their employer

- The concept of direct and indirect interest must be precisely defined in national legislation or regulations applicable to the public sector. It should cover:
 - material or financial advantages
 - personal interests of a psychological, emotional or political nature

- The obligation of confidentiality should apply to **all staff** working in the labour inspectorate

Ethics





5

Powers and methods of inspection



Prerogatives of authority

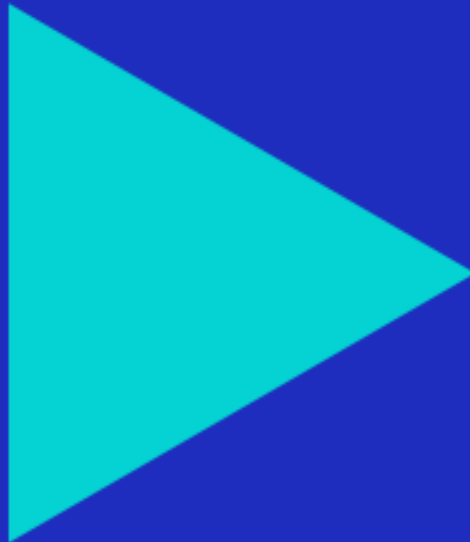
- Reaffirmation of the prerogatives established by Conventions 81 and 129
- Where appropriate, the use of technology could allow inspection actions to be carried out without physical presence in workplaces: checking documents, taking witness statements, confirming the repair of physical installations
- Competent authorities should refrain from limiting the legal scope of inspections to certain areas or to pre-established checklists
- Labour inspectorates should not set strict limits on the maximum duration of inspection visits
- Insofar as the effectiveness of inspection visits is not jeopardised, visits should respect the activities of companies and workers.





6

Enforcement measures



- An appeal against a prohibition notice should generally not have a suspensive effect
- Due to the different nature of notices and sanctions, both can be executed in parallel
- Labour inspectors must have the discretion to choose whether or not to impose a sanctioning procedure to enforce legal provisions
- Less serious offences, as defined by national legislation, should be addressed by providing information, guidance and counselling to employers so that they can resolve them
- If the sanctions imposed consist of fines, the amount of the fines must be updated regularly, taking inflation into account.
- It is essential that sanctions are effectively implemented

