

New Labour Inspection Approach in Occupational Risk Prevention in Romania

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Ladies and Gentlemen,

On the occasion of this special meeting, it is my pleasure to transmit you, sincere greetings and best wishes from Ms Mariana Basuc, the General State Inspector of the Romanian Labour Inspection. I am very pleased to be here with you today as, on together with my colleague, to share the opinion that health and safety in the workplace is a highly complex and important area for the social policy of the European Union today. For this reason, the Romanian Labour Inspection is very interested in having an intensive exchange of views with our European partners on concrete experiences, ways of solving problems, and successful practical examples.

Since 1994, the new occupational safety and health legislation has been put in conformity with the E.U. requirements and the process of approximation to the Community Acquis continues.

Romania is a medium size country, with about 5 millions of employees and with 41 administrative regions – districts - similar with the European patterns.

The dimension of the work force allows a sufficient attention towards health and safety problems and an effective and positive action from the Labour Inspection, a specialized body of the central public administration, subordinated to the Ministry of Labour and Social Solidarity, charged with detecting, measuring and dealing with health and safety in the country.

Effective and efficient labour inspection is an essential purpose and thereby we consider that labour inspection is a complex, demanding profession requiring vocational training, competency and commitment.

Legislation and enforcement of legal provisions

As a result of the transition, the old inspection system, as common for the former central planned economies countries, disappeared. Substantial new developments and major changes have occurred in both the policy and practice of labour inspection since the Labour Inspection Law no.108 was endorsed, in 1999.

First of all, I must stand out the compliance of the Romanian legislation concerning the labour inspection system with ILO Conventions no.81 and 129, ratified by Romania in 1967.

Labour Inspection was entrusted with a whole new set of responsibilities according to Labour Inspection Convention and Recommendation no.81.

All relevant legal acts regarding safety and health are administrated by the Labour Inspection.

The basic laws regarding the Romanian Labour Inspection are:

- The Labour Inspection Law 108/1999, republished, (ILO Convention 81) with its subsequent amendments: Government Decision no. 767/1999 for the organizing and functioning regulations of the Labour Inspection.
- Law 90/1996 on Labour Protection, amended and republished in 2001 and its methodological norms. For the prevention of the risks in the specific activities, 111 specific norms have been elaborated and they are in force, out of the 154 listed in Annex 2 to the Law.
- The General Norms of Labour Protection, approved by the Order of the Minister of Labour and Social Solidarity 508/2002 and the Order of the Minister of Health and Family 933/2002, contain the major elements regarding the prevention of work accidents and occupational diseases.
- The Labour Code (Law 53/2003).
- Several regulations on health and safety at work committees, (Order of the Minister of Labour and Social Protection 187/1998), on the granting and the use of the personal protective equipment (Order of the Minister of Labour and Social Protection 225/1995, on the minimum requirements for health and safety signals at work (Order of the Minister of Labour and Social Protection 599/1998) and so on.

The Labour Protection legislation is compulsory for all the activities within national economy, both public and private (industrial, agriculture, commercial, administrative, services, educational, etc.). It concerns all legal and natural persons performing activities on Romanian territory, as employers and employees, as well as apprentices, students, during their vocational training.

The General Norms of Labour Protection include general principles for the prevention of work accidents and occupational diseases. The goal is the eliminating or diminishing the risk factors for accidents and occupational diseases, existent in the working environment, as well as the information, consultation and participation of the employees and their representatives.

The main purpose principle for their elaboration was the alignment of the Romanian legislation to the European legislation and practices.

Thus, the framework Directive 89/391 was transposed entirely in Labour Protection Law 90/96 and in the General Norms for Labour Protection, and its specific directives, deriving from Article 16, have been transposed in the specific norms aimed by these directives.

The provisions of the General Norms constitutes the framework for the elaboration of the specific norms and specific health and safety working instructions.

The employer has to elaborate and inform the employees about his own prevention policy that must be targeted to the improvement of the health and safety at work, also by including the implementation of a management system for health and safety at work, which is going to be a part of the general management system.

The **health and safety management system** should include:

- efficient flow of information;

- control and assessment tools: initial analysis, control and assessment of the risks, audit, board company analysis;
- the principle of the continuous improvement of the performances;

Health and safety at work requires strong management commitment, good worker involvement and a well-structured integrated management system.

According to national labour legislation, harmonized with European Union directives, employers have responsibilities for the safety and health of their workers.

The Romanian harmonized legislation provides the general framework for health and safety management, risk identification and prevention.

Employers are required to assess risks and take practical measures to protect the safety and health of their workers, keep accident records, provide information and training, consult employees and co-operate and co-ordinate measures with contractors. A hierarchy of prevention is set including: avoid risks; combat risks at source; adapt work to the worker; replace the dangerous with the non-dangerous; and, give collective measures priority over individual measures. Workers are entitled to receive information about the risks to health and safety, preventive measures, first aid and emergency procedures. The employee's duty is to co-operate actively with employers' preventive measures, following instructions, in accordance with safety and health training given and taking care of their own and workmates.

As the main responsible for health and safety activities, the employer must define a prevention policy and undertake all measures needed to analyse the work risks and to prevent or control its manifestation towards all workers, including apprentices and students working during school leaves.

In order to manage health and safety programs, employers must appoint one or two workers as safety delegates in enterprises with less than 50 employees. The companies with more than 50 employees must organize a Labour Protection Department, which includes the safety at work office and health at work office.

If the competences within the company are insufficient, the employer can contract external services. Employers have to guarantee access for all employees to health services. These norms are binding and the labour inspectors sanction its infringement.

Workers representation in health and safety matters is regulated by the General Norms for Labour Protection. Worker representatives have an important role. According to that Norms, workers' representatives have the right to be informed and they propose the employer measures in order to improve health and safety in the enterprise.

In the enterprises with more than 50 employees a Health and Safety at Work Committee is organized, which includes the employer and employees representatives, the safety delegates and health representative.

The employees' involvement and consulting is required by law. Using their knowledge, a hazard can be avoided and correctly spotted and workable solutions can be implemented. Employees must be consulted on health and safety measures and also before the introduction of new technology or products. Consultation helps to ensure that workers are committed to safety and health procedures and improvements.

Work Accidents

In 2002, nearly 6209 employees suffered workplace accidents (out of which 399 fatalities) resulting in more than 3 days absence.

The frequency rate for the occupational accidents (victims number related to 1000 employees), in 2002, was 0,99‰ (and 0,06‰ for the mortal accidents).

The gravity rate for the occupational accidents (the number of lost working days due to the work incapacity related to 1000 employees), in 2002, was 56,1‰.

The medium length rate of work incapacity for the occupational accidents (the average number of lost working days due to the work incapacity of an employee), in 2002, was 63,3 lost working days.

The total number of collective accidents in 2002 was 32, with 130 workers injured and 41 fatalities.

The total number of the professional diseases in 2002 was 2507.

In the near future (2004), another source of information will be established based on an Accident Insurance Fund, considering that the methodology used to collect full information leads to a substantial underestimation.

Some effects are permanent, affecting people's ability to work and life outside work. Work-related accidents occur in all industries (mining, construction, metallurgy, manufacturing) and include slips and trips, falls, falling objects, sharp and hot objects, and accidents involving vehicles and machinery.

The cost of occupational accidents includes:

- Sick pay, overtime payments, temporary labour replacement, early retirement, recruiting new labour, retraining;
- Lost production time and business;
- Damage to plant, equipment, materials, products;
- Management time to deal with accidents;
- Increased insurance premiums, lawyers' costs;
- Lower worker morale.

Role of Labour Inspection

The effectiveness of existing laws is measured at Labour Inspection level through the results of inspective actions.

Regarding the number of inspections and fines, the following data apply:

- In 2002, the total number of inspections performed was 151,948 - 63,647 of which were OHS inspections;
- In 2002, labour inspectors applied 17,507 contravention sanctions.

In the 2002 Annual Work Plan, 151,948 controls were carried out at the territorial inspectorate level, which corresponds to 212,868 control days.

The Romanian Labour Inspection main competences are not different from its homologous generalist labour inspections in Europe (labour relations, health and safety, labour conditions, labour conflicts), but also it has the competence to initiate proposals for new legal provisions or for modifying the existing ones.

The promotion activities are achieved by information and expertise exchange, workshops, awareness campaigns for risk prevention, exhibitions of technical

equipment and individual protection equipment for instance, organized at the territorial level in collaboration with specialized institutions.

Every year, the European Agency for Safety and Health at Work in Bilbao organizes the European Week for Safety and Health at Work on established priority topics in the field.

For instance, in 2000, the Labour Inspection organized a national campaign on prevention of musculo-skeletal disorders, which was the topic chosen by the European Agency in Bilbao for that year and on the awareness towards ergonomics problems at workplaces. Within this campaign were conducted specific activities like: inspections, employees training on specific issues, conferences and workshops, round tables, exhibitions for personal protective equipment, designing information materials (video, posters, brochures, magazines), press releases.

The Labour Inspection included in its national action plan for 2003 national awareness campaigns as:

- National Awareness Campaign on national labour protection legislation harmonized with EU directives (89/391, 89/654, 89/655, 92/104, 2000/54, 98/24, 90/394, 86/188, 93/103, 92/85, 92/91);
- National Awareness Campaign on elimination of child labour.
- National Awareness Campaign for control the illegal work.
- National Awareness Campaign on prevention of the risk of exposure to asbestos.
- National Awareness Campaign on the market surveillance for products according to the EU directives.

The labour inspectors provide technical information and guidance to employers and employees. At territorial level, information regarding the new legislation, reasons and circumstances of some fatalities or special events are presented, on periodical basis, during the meetings with employers and other actors involved, in the economical sectors. For high-hazard industries, such as mining industry and chemical industry, the labour inspectors participated on the organization of the training courses for the safety delegates, employers, health and safety at work representatives etc.

During their visits in the enterprises the labour inspectors may provide technical information and guidance to the employers/employees about the existing risks and the preventive necessary measures.

Through the co-operation with labour inspectors from France and Sweden in two twinning projects, the Romanian Labour Inspection Central Office draw up the following materials as sources of information for inspectors, employers as well as other actors involved in occupational safety and health issues:

- Guidelines for employers on reducing worker exposure to hazardous agents in the workplace;
- Methodological guidelines for the prevention of exposure to 5 specific risks: noise, asbestos and biological, carcinogenic and chemical agents;
- Brochures and booklets on the 5 specific risks mentioned above;
- Posters and stickers.

The Labour Inspection cooperates with ministries, other inspections, public or private institutions, representatives of trade unions and employer's confederations.

Also, the Labour Inspection collaborate with other enforcing bodies - the Directorates of Public Health, the General Inspectorate of Police, State Inspection for Pressure Vessels and Hoisting Installation (ISCIR), Consumer Protection Body, Chambers for Industry and Commerce, Fire Department - on the basis of the inter-institutional agreements.

The National Institute for Research and Development for Labour Protection, the Public Health Directorates and Public Health Institutes, Employers' Organizations, Trade Unions and other consultants authorized by the Ministry of Labour and Social Solidarity are also sources of information and guidance for employers and employees.

Employers' Organizations and Trade Unions provide employers and employees with technical information, guidance on selecting technical equipment and personal protective equipment, training, exhibitions, draft rules and standards, guidelines and information materials.

Private experts and consultants may provide paid technical assistance and training.

The future institution - National Insurance Fund for Work Accidents and Occupational Diseases which will be in force beginning with 1st of January 2004 - will have also competences in health and safety law enforcement and will have close institutional relation with LI.

The National Insurance Fund for Work Accidents and Occupational Diseases will also be set up. The Fund will be a public tri-partite body. The insurance will be compulsory for all legally employed workers. Contributions will be exclusively paid by employers, and services will be provided by the insurance body. At territorial level the Fund will develop, beginning with 2004, a joint system with a public and a private component.

The structure of the Romanian Labour Inspection

The Labour Inspection Central Office achieves its own objectives through eleven directorates.

The Labour Inspection (LI) is divided into 42 Territorial Labour Inspectorates, which have a legal status and correspond to the 41 regions of the country and the Municipality of Bucharest. Also, the LI includes a - "Centre for Monitoring Companies with Occupational Hazards" in the city of Criscior and a - "Training Centre of the Labour Inspection" located in Botosani.

The LI is headed by a General State Inspector, supported by two Deputy Inspectors, who has the responsibility of the management of the institution.

The directorates at the Central level cover the following general subject areas: human resources, training, documentation, electronic data processing, technical and legal matters, labour relations, health and safety at work, audit, finance etc.

The work of this directorates includes counselling regarding new legislation for the Ministry of Labour, setting the national policy for LI, drafting annual programmes of work with labour inspectorates, preparing legal and technical advice and guidance for the labour inspectors. The total staff at the Central level is about 125 employees, 64 of which being labour inspectors.

At the local level, in the 42 territorial labour inspectorates, 2819 positions were filled - 1323 of which are labour inspectors.

The territorial labour inspectorates are managed by chiefs inspectors and their organizational structure is mainly divided in two control departments, one dealing with health and safety at work matters and the other with labour relations.

The Labour Inspection owns 200 cars, 39 of which were purchased in 2002.

OPERATING METHODS

A) Inspections

By law, LI has general competences in both labour relations and health and safety control. It organises its work in both fields, developing tasks for labour relations and for health and safety areas.

The inspections follow a national Action Plan for LI with strategic precise objectives. The plans at the districts level are based on the framework Action Plan, with the completion of some necessary local actions in order to provide an effective and efficient inspection. The decision on which premises should be visited is influenced by a number of factors. The inspector's personal knowledge and experience, the analyse of the enterprises files, the information on work processes, accidents and past management performance in the field of health and safety at work provide strong indicators of those employers who should be controlled.

The inspectors visit the enterprises, in particular those with high-risk level, complying with territorial action plan and following a claim or a work accident. Also, they could proceed to holistic inspections.

The labour inspectors have access to the information concerning the enterprises, gathered in the enterprise register, to the accidents rate and they could change information with others territorial labour inspectorates.

Following an inspection visit they draw a report which is a formal administrative act, which mainly includes the facts, the infringements of legal norms in accordance with the facts, described and the measures ordered by the labour inspector.

B) Proactive and reactive inspections

The proactive inspections are aimed to impose the proper enforcement of the legislation, to ensure the development and the improvement of the working process in accordance with the occupational safety and health requirements and to assist the persons concerned on the most efficient means of observing the legislation and safety and health at work practices. The Labour Inspection should bring to the notice to the Ministry of Labour and Social Solidarity defects or abuses not specifically covered by the existing legal provisions.

The proactive action deals with all the inspection fields. It could be realized on the basis of a request. The proactive interventions are connected with "flash" actions for the illegal work control and with health and safety prevention campaigns, being an instrument for law enforcement and for measuring the effectiveness of legal norms in some economic sectors (LI has developed campaigns in the construction industry, wood industry and in others domains). It is not possible with the resources available to inspect every workplace and the decision on which enterprises must be visited is based on the information collected during the proactive inspections. The information about the enterprises on matters such as the number of employees, activity, risks etc. is hold on the labour inspectorates in order to inform decisions on the choice of future priorities and to ensure continuity in the event of a change in the inspector' staff.

The labour inspector's reports contain detailed information on the particular aspects of the inspection.

The LI carries out inspection campaigns in different fields with the objective both of ensuring compliance with legal requirements and of obtaining information on the progress achieved by the enterprises in the labour protection and the problems that might exist.

As a proactive action, LI publish on paper support or in its website informative brochures and information materials.

Employers are required to report all fatal accidents and those, which result in more than three days absence from work to the labour inspectorates. In the case of fatal, collective or very serious accidents the employers must inform immediately the labour inspectorate in order to carry out the investigation. The 42 local labour inspectorates operate a 24-hour rotate system and accordingly there will always be a labour inspector available to respond to such request and to investigate the case.

The reports on accidents submitted to the labour inspectorates by employers are generally quite detailed so that an experienced inspector has little difficulty in deciding which merit attention.

Also, the LI receives complaints from employees, trades unions, others institutions etc and all this matters are investigated. During the investigation, confidentiality is strictly observed and the source of the complaint is never divulged.

C) Information collecting and advice

During the ordinary visits or in inspection campaigns the labour inspectors could obtain information on the occupational health and safety problems. Based on the information gathered, the LI published information for employers both on methods of complying with the law and particular on new topics. Also, there has been an increase information meetings organized by the labour inspectorates to give advice to the employers, employees and others.

There is a close cooperation and exchange of information between the labour inspectorates and other local institutions. The campaigns are a good way of articulating the various institutions acting in health and safety promotion and control.

D) Inspection methods

It is one of the main goals of a labour inspection to check if the employers took all the measures needed to comply with legal provisions and if they have granted their organisation with the proper means to detect, prevent and correct any deficiencies capable of constituting a risk for workers and to guarantee the improvement of working conditions promoting health and safety at work, by accomplishing, at least, the minimum requirements.

In order to ensure these minimal requirements, laws have to be effective and it is necessary, not only to apply sanctions to prevent future non-compliances, but also to guarantee the effectiveness of these sanctions.

The inspection practice is regulated by the methods of inspection applied; some of them are quoted bellow:

- System inspection for the big-size enterprises.
- System inspection for small and medium size enterprises.
- The thematic control inspection method.
- Imposing measures with special direction (MSD) inspection method.
- Campaigns and awareness campaigns.

The labour inspectors

The Romanian labour inspectors have legal powers to control law enforcement.

They can take measures to eliminate deficiencies in a site or a work process when there is a suspicion that a risk exists for the workers' health and safety.

The labour inspectors are entitled to impose the following corrective measures if the employer does not comply with the legal liabilities regarding to the labour protection norms:

- the immediate rectification of the deficiencies which were found, or in a limited period of time;
- adjustment of the installations or of the technologies used, if they do not ensure the safety and health of the employees;
- cease an activity or stop the functioning of the technical equipment when an imminent hazard (an accident) is most likely to occur or there is a danger for the health of the employees.

The corrective measures settled by the labour inspectors are mandatory and they are recorded in the control report. The employer may draw appeal against the control report made by the inspector.

Having in mind the changing role of the Romanian labour inspection system according to the foreseen economic developments in the labour market, the managers of the Labour Inspection will have to be able to understand and analyse the diverse forces driving economic and social change in order to respond rapidly and in an anticipatory manner to these challenges.

Based on the twinning project "Strengthening the administrative capacity of the Labour Inspection" carried on by the Labour Inspection and the Swedish Work Environment Authority, the chief inspectors of the 42 labour inspectorates and the managers from the central level have been trained on a new broader reflection regarding the labour inspection management. Also, were trained 400 labour inspectors and 30 trainers in the field of risk assessment.

Within the twinning project "Creating a protection system for the workers exposed to hazardous agents at work", managed in co-operation with France, 30 trainers were trained on risk assessment regarding exposure to chemical, physical, biological, carcinogen agents and noise.

On the basis of the National Training Plan for 2003, 162 labour inspectors will be trained on risk assessment, safety at work and new control methods.

It will be necessary to abandon a rigid, narrow approach based on a single specialization (legal, technical, medical, social) in favour of a truly integrated vision, and develop an understanding of the factors that influence and contribute to improve the labour protection at work.

The number of Romanian inspectors in the organisational structure of LI, is about 1387 persons, established according to the country's geographical dimension, working population and economical profile. It is known that problems aren't solved just by increasing the number of labour inspectors, and this is why the Romanian LI paid a

special attention to the inspectors' recruitment system, to the organisational weaknesses or misplaced competences and to render topical the existing law.

The inspectors' recruitment and selection process complies with ILO Convention 81 (and its 1995 Protocol). The labour inspectors are recruited on the basis of a university degree in technical domain, legal, economical or psychological, sociological or occupational and medical field, managerial abilities and capacity to fully exercise their duties are required. The selection is based in experience of the examined person, but not only on this – a labour inspector has to have some basic capacities beyond professional experience. The due knowledge an inspector needs either in labour law either in health and safety isn't acquirable simply through practice. A specific system of examination for the inspectors' selection, through a general exam, is established.

Powers of labour inspectors

The labour inspectors are public servants and they enjoy the rights that derive from Law 188/1999 regarding the status of the civil servants. The labour inspectors are independent of the government changes and free from any unforeseen influence.

The Romanian Law gives to the labour inspectors the powers stated in ILO's Convention 81 and 129.

Labour inspectors can use the provisions of Convention 81: free entrance in company premises, except private domicile, ask for police forces support, make interrogations, ask and analyse documents and demand to place signs, posters and Inspection notices in the facilities.

The inspectors, can, beyond this, take samples of products, substances, materials, etc., once they announce it to the employer or his representative and they can order the making of technical analysis or studies from agreed institutions. They can also request the presence of the employer in the inspectorates' headquarters. Also, they have the capacity to order technical exams when they suspect (in the premises) that there are risks for workers well being.

CONCLUSION

In future, more importance should be attached to active a positive behaviour towards management by means of prevention and innovation rather than reactive intervention by means of new laws and amendments to laws.

High levels of attendance, availability and willingness to work can only be achieved if accidents, occupational diseases and work-related illnesses can be efficiently prevented, and if working conditions promote health and are motivating. Preventive health and safety provisions for workers must assist undertakings in this task. Measures to structure work and improve the workers' skills are also important for economic success. Labour Inspection have known this and know that efforts to turn this knowledge into practice in the undertakings and to convince managers, employers and employees of the importance of active health promotion and preventive measures in the undertaking must not slacken.

We consider that full compliance with the health and safety acquis is essential:

- To improve the general level of health and safety in the country as a whole;
- To lower the number of work accidents, work injuries and occupational diseases.

The effective and supported action of the labour inspection system is fundamental to achieve this goal and the Romanian Labour Inspection wishes to play an active part in this huge challenge.

The Romanian Labour Inspection is prepared to meet the forthcoming challenges successfully. The new challenges require a new, more comprehensive policy approach which brings together the social partners, to promote better cooperation in the field of labour protection as well as in the fields of employment and the labour market, training and skills, research and technology, and health and safety at work.

We are pleased to note that Romania is on the right track for mastering this task and to come out that is making considerable endeavours. We would very much welcome a wide European exchange of views as soon as possible at which we could mutually inform each other about our ideas as to how the changing world of work should be organised. That would give us additional policy support.

I am very grateful to the organisers that today's meeting has taken a first step in this direction and I appreciated getting to know what steps other States are taking to improve the working environment.