



ASSOCIATION INTERNATIONALE DE L'INSPECTION DU TRAVAIL

INTERNATIONAL ASSOCIATION OF LABOUR INSPECTION

ASOCIACION INTERNACIONAL DE LA INSPECCION DE TRABAJO

INTERNATIONALE VEREINIGUNG FÜR ARBEITSINSPEKTION

الجمعية العالمية للتفتيش

МЕЖДУНАРОДНАЯ АССОЦИАЦИЯ ИНСПЕКЦИИ ПО ТРУДУ

国际劳动监察协会

Circulated: 13 Jul 2021

Roles of Labour Inspectorates in respect of Migrant Workers

Purpose and Context

- 1 This policy document serves as a guide for labour inspectorates when dealing with matters concerning migrant workers at the workplace.
- 2 The growth in globalisation and the increasing mobility of labour has led to steadily increasing numbers of migrant workers in recent years. Experience suggests that such workers are more likely to be at risk of being employed illegally or in situations where the 'employer' is exploiting its workers through failing to provide decent work and operate in non-compliance with the relevant employment laws and regulations.
- 3 Agencies advocating for harmony and workers' rights at the workplace such as the ILO, and other regional agencies have raised concerns on the manner in which migrant workers are treated.
- 4 Labour Inspectorates are one of a number of bodies that will have a role in respect of migrant workers. They will need to work in collaboration and cooperation with other relevant competent bodies such as: Police; Immigration Authorities; and Social Insurance Services to address illegal work including illegally posted workers and work in the informal economy (by migrant and national workers) in accordance with national laws and regulations. Such collaboration should however recognize and accept the respective roles of the other bodies.
- 5 To perform their function it is necessary to preserve the special powers of labour inspectorates to enter workplace without requiring to notify the employer in all sites that are subject to inspection or presumed to be engaging in illegal work and without any interference.¹
- 6 Equally it is important for Labour Inspectors to ensure that those powers are not exploited or abused by other competent bodies to gain access to workplaces where they are not provided in law with such powers.

¹ in accordance with ILO Convention 81

Definitions

- 7 The term 'migrant worker' covers a wide variety of legal situations and realities:
- a migrant worker in a legal situation with a regular residence and a work permit - the person could legally reside and work in the country.
 - a migrant worker in a legal situation with a regular residence, but no work permit - the person could legally reside but is not allowed to work in the country.
 - a migrant worker in an illegal situation for both residence and work permit: the person should neither reside nor work in the country.
 - some precarious migrant workers could be also victims of human trafficking through international mafia networks (for instance, domestic staff).

Policy Statement

8 Labour Inspectors' primary role is to prevent the exploitation of all workers (including migrant workers) to ensure they are given decent work; their employment rights are protected; and they are not exposed to safety, health and other risks that are not effectively controlled or managed.

9 This role is relevant to all migrant worker categories listed in Paragraph 7 above.

10 Other authorities may have differing roles in respect of some categories of migrant workers, e.g. to identify and address migrant workers who are not allowed in law to work in a country.

11 The primary interest of Labour Inspectors is in the protection of all workers' rights. When workers are required to operate illegally or in the black economy, they are almost always victims of the circumstances they find themselves in. Labour Inspectorates roles are to hold to account those who create and profit from such situations, not the victims.

Further Background

12 The fundamental principle for labour inspection is to ensure that work/employment is carried out within the laws, regulations, and policies in the country of employment. The aim is to ensure fair competition between companies, to adequately protect and ensure decent work for all workers, including migrant workers.

13 To achieve the objectives of LI, it is useful and advisable to inform stakeholders, either through relevant competent authorities or by the Labour Inspectorate itself, on their role and the relevant legal context. Moreover, during inspections the LI's role and any enforcement/administrative actions should be explained to the employer, the employees' representatives, and employees themselves, migrants or otherwise. This will help clarify the rules concerning illegal work to all relevant stakeholders.