

**Committee on the Application of Standards**

CAN/PV.1

**Commission de l'application des normes**

05.06.21

**Comisión de Aplicación de Normas**

109th Session, Geneva, 2021

109<sup>e</sup> session, Genève, 2021109.<sup>a</sup> reunión, Ginebra, 2021

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

Avertissement: ce document est un projet, qui peut comporter des omissions ou des erreurs et n'est rendu public qu'à des fins de vérification et de rectification. Les mentions contenues dans ce document provisoire n'engagent pas les personnes dont les propos sont rapportés. La responsabilité du BIT ne saurait être engagée à raison des éventuelles erreurs et omissions entachant ce document, ou de l'utilisation qui pourrait en être faite par des tiers.

Advertencia: el presente documento es un proyecto y puede contener omisiones o errores. Solo se publica a efectos de comprobación y rectificación. Las declaraciones que se atribuyen en el presente documento provisional a las personas citadas en él no comprometen su responsabilidad. La OIT queda exenta de toda responsabilidad respecto de cualquier error u omisión que pudiera figurar en el presente documento o que pudiera derivarse del uso del documento por terceros.

**Fourth sitting, 5 June 2021 (cont.), 2.30 p.m.  
Quatrième séance, 5 juin 2021 (suite), 14 h 30  
Cuarta sesión, 5 de junio de 2021 (cont.), 14.30 horas**

Chairperson: Ms Mvondo

Présidente: M<sup>me</sup> Mvondo

Presidenta: Sra. Mvondo

**Discussion of individual cases****Discussion des cas individuels****Discusión de los casos individuales****Tadjikistan (ratification: 2009)**[Labour Inspection Convention, 1947 \(No. 81\)](#)[Convention \(n° 81\) sur l'inspection du travail, 1947](#)[Convenio sobre la inspección del trabajo, 1947 \(núm. 81\)](#)

**Présidente** – Nous pouvons dès à présent aborder le troisième point inscrit à l'ordre du jour de nos travaux cet après-midi, qui est celui de la discussion des cas individuels. Nous allons commencer cette discussion par le cas qui concerne le Tadjikistan et l'application de la convention n° 81.

Je vous rappelle également que le gouvernement du Tadjikistan a envoyé des informations écrites. Ces informations se trouvent dans la section «Discussion des cas individuels» de la page Web de la commission.

J'invite dès à présent Madame la représentante gouvernementale du Tadjikistan, M<sup>me</sup> Shirin Amonzoda, ministre adjointe du Travail à prendre la parole.

Le temps que Madame la ministre se connecte, nous allons faire une pause de cinq minutes.

*[Pause de dix minutes]*

**Représentante du Secrétaire général (M<sup>me</sup> VARGHA, Directrice du Département des normes internationales du travail)** – Nous sommes encore en attente de connexion de la représentante gouvernementale du Tadjikistan. Nous comptons sur votre compréhension et patience et allons prolonger la pause pour donner le temps à Madame la ministre adjointe du Travail de se connecter.

*[Pause de vingt minutes.]*

**Présidente** – Nous pouvons reprendre les travaux. Nous passons immédiatement la parole à Son Excellence l'Ambassadeur Khamidov, Jamshed, du gouvernement du Tadjikistan.

*Interpretation from Russian:* **Government representative, (Mr KHAMIDOV)** – The Labour Code of Tajikistan sets out provisions on the role of trade unions, as approved by the Executive Committee of the Federation of Independent Trade Unions. The Code thus sets out the rights and obligations of trade unions.

The Federation of Independent Trade Unions of Tajikistan, in line with article 357 of the Labour Code, has established its own labour inspection service. In accordance with

the requirements of the Labour Code, the inspectors of the Federation have the right to inspect enterprises in accordance with OSH requirements, and to identify violations.

In order to strengthen the role of trade unions in monitoring OSH conditions, the above-mentioned legislation has been amended to comply with certain requirements, including the following: labour inspectors of trade unions have the right to record violations; carry out inquiries into cases of occupational illnesses in accordance with legal requirements; and to impose a work stoppage in the event of a threat to workers' lives. They may oblige employers and relevant state entities to remedy defects and breaches in the areas of OSH and labour standards. The trade union inspectors work closely with the state labour supervisory bodies. A Council for the Coordination of Activities of Inspection Bodies was established in order to further strengthen collaboration between the two inspection services..

The Council meets in certain intervals each year, with the participation of representatives of the Ministry of Labour, the Industrial and Mining Inspectorate, the Power Systems Inspectorate and the Health Inspectorate. However, for a number of reasons, including the pandemic, it has not been possible to hold such meetings in the recent period. It will thus be necessary to revive the Council, with technical assistance from the ILO Regional Office. The Ministry of Labour regularly exchanges information with the inspection services on a wide range of issues, as well as holding joint round tables, seminars and conferences on OSH, labour inspection and other topics.

In accordance with the provisions of the Labour Code, the participation of inspectors of the Federation, jointly with the state inspection service, is obligatory in inquiries on individual cases of occupational diseases.

In 2020 and the first quarter of 2021, the trade union inspectorate, together with trade union leaders and representatives, were invited to participate in the consideration

by the Ministry of Labour, including its OSH inspectorate, of issues such as delays and arrears in the payment of workers' earnings.

Special status is given to the work of labour inspectors, since the state labour inspectorate is the central enforcement body of the state system. As such, the inspectorate has to ensure the proper application of the Labour Code, including with regard to migrant workers, in all enterprises, regardless of their status or form of ownership.

Labour inspectors are civil servants. During the 20-year period since the establishment of the state inspection service, the regular staff complement of the inspectorate has remained fairly stable. The labour inspectors have thus considerable experience and seniority, although the length of service of labour inspectors varies as follows: 3 inspectors with over 20 years; 16 with over 15 years; 16 with over 10 years; 12 with over 5 years. At the current time, the level of staff turnover in the labour inspector is the lowest among the different state bodies. Appropriate working conditions are enjoyed by all labour inspectors, regardless of whether they work in the central administration or in regional offices, and all inspectors are provided with sufficient resources, offices, technical support and other necessary resources in order to be able to carry out their work. All employees are provided with personal internet access. With the support of the ILO, it was possible to establish an information centre.

With regard to the moratorium on inspection, the number of inspections carried out in accordance with the law was not to exceed 10 per cent of the total number of organizations liable for inspection in a calendar year.

Meanwhile, Government support was provided to strengthen the country's industrial potential, improve export capacity, and build the country's enterprise sector in order to support a positive environment.

The moratorium was effective until 1 January 2021 with regard to the inspection of all manufacturing enterprises in order to allow time for the creation of appropriate employment conditions and a pleasant working environment. However, the moratorium came to an end on that date. It also did not affect inspections by the trade union inspectors, who do not require any approval or permission for their work and whose action is independent of state authorities.

Turning to the practical implementation of the mandate of the inspectors and the exercise of their powers, the action taken depends on the level of threat to the life or safety of workers. Measures to be taken are explained to employers. Where required, the activity of the enterprise concerned is stopped so that violations of the law can be addressed and appropriate health and safety at work be ensured.

Annual reports are sent by the responsible state body to the Ministry of Labour, and in this regard I also wish to touch on the issue of the reports that need to be sent to the ILO. In the future, we will strive to send an annual report to the Organization, in accordance with the relevant Article of the Convention and the established procedures.

Furthermore, it is noted that in accordance with articles 357 and 358 of the Labour Law, the powers of labour inspectors are fully respected. As regards labour disputes, they are being dealt with in accordance with the Labour Law, including, where necessary, through proceedings in the courts.

The work of the labour inspectors also includes monitoring the application of the legislation on migration. Labour migration is a major issue in our country. In this regard, the Labour Ministry and the relevant state service ensure that the law is being complied with, particularly regarding voluntary migration, in line with the relevant provisions of the Convention.

Due to lack of time, I do not wish to go through the entire report, which can be found on the ILO website.

**Membres travailleurs** – Nous avons déjà eu l'occasion de l'aborder au cours de nos discussions: l'inspection du travail est fondamentale. Dans leur observation générale relative à la convention n° 81, les experts parlent même d'une fonction publique vitale, vitale puisque, comme ils le disent, «elle est au cœur de la promotion et de l'application des conditions de travail décentes et du respect des principes et droits fondamentaux au travail». Ce n'est donc pas par hasard que la convention n° 81 est considérée comme une convention prioritaire de gouvernance.

Pouvoir compter sur des services d'inspection pleinement compétents et bénéficiant des moyens nécessaires à leur action est essentiel pour les travailleurs. Nous devons regretter que les travailleurs tadjiks ne puissent compter sur ces garanties fondamentales du fait des violations de la convention n° 81 par le Tadjikistan. Comme nous avons pu le constater au cours des sessions précédentes de la commission, l'affaiblissement des services d'inspection est malheureusement une pratique courante dans cette région du monde.

La première violation grave de la convention n° 81 que nous devons constater au Tadjikistan résulte de la loi n° 1505, qui prévoyait un moratoire pour les inspections sur les lieux de travail jusqu'au 1<sup>er</sup> janvier 2021. Selon les informations écrites fournies par le gouvernement, ce moratoire n'a pas été étendu au-delà du 1<sup>er</sup> janvier 2021. Il est essentiel que le Tadjikistan s'abstienne de réintroduire un tel moratoire à l'avenir, qui est incompatible avec la convention n° 81.

À côté de ce moratoire sur les inspections du travail, nous devons également constater des restrictions aux pouvoirs des inspecteurs sociaux, contraires aux dispositions de la convention n° 81. En effet, la dernière loi en date, la loi n° 1269, contient

des restrictions aux pouvoirs des inspecteurs en ce qui concerne la fréquence des inspections, la durée des inspections, la possibilité pour les inspecteurs sociaux de réaliser des inspections sans avertissement préalable, et la portée des inspections. Il ressort des informations écrites transmises par le gouvernement que les limitations aux pouvoirs des inspecteurs sociaux ne s'appliquent qu'aux inspecteurs sociaux de l'État et non pas aux inspecteurs sociaux des syndicats.

Un tel moratoire et de telles restrictions aux pouvoirs des inspecteurs sont en contradiction avec les articles 12 et 16 de la convention n° 81, qui habilite les inspecteurs du travail à pénétrer librement, sans avertissement préalable, à toute heure du jour et de la nuit, dans tout établissement assujéti au contrôle de l'inspection, et à procéder à tous examens, contrôles ou enquêtes jugés nécessaires pour s'assurer que les dispositions légales sont effectivement observées. Cela devrait s'appliquer à tous les inspecteurs sociaux, qu'ils soient les inspecteurs sociaux de l'État ou les inspecteurs sociaux syndicaux. Il convient dès lors de pleinement rétablir les compétences des inspecteurs sociaux de l'État pour assurer la conformité avec la convention n° 81.

Dans son observation générale, la commission d'experts regrette que les restrictions aux services d'inspection soient souvent imposées sur la base des conseils d'autres institutions internationales. Nous constatons que le gouvernement s'est d'ailleurs reposé sur les conseils de la Société financière internationale et de la Banque mondiale pour introduire un tel moratoire. C'est extrêmement problématique, et l'OIT devrait entrer en dialogue avec ces institutions internationales pour éviter cela.

L'article 13 de la convention n° 81 prévoit que les inspecteurs doivent être autorisés à provoquer des mesures destinées à éliminer les défauts constatés dans une installation, un aménagement ou des méthodes de travail qu'ils peuvent avoir un motif raisonnable de considérer comme une menace à la santé ou à la sécurité des travailleurs.

Si l'article 30 de la loi n°1269 semble contenir une disposition permettant aux inspecteurs de ce faire, la portée juridique concrète de cette disposition n'était pas très claire. Les informations écrites transmises par le gouvernement nous permettent de mieux saisir la portée de cette disposition et d'avoir de premières informations quant au nombre de mesures prises par les inspecteurs sociaux sur cette base. Il est indispensable que le gouvernement transmette à l'avenir ces informations en temps utile pour permettre une évaluation de la mise en œuvre concrète de l'article 13 de la convention n° 81.

Concernant la dualité des fonctions d'inspection assumées par l'État et les inspecteurs du travail des syndicats, nous remercions le gouvernement pour les informations écrites qu'il a transmises. Nous regrettons toutefois que ces informations n'aient pas été transmises en temps utile à la commission d'experts. Si ces informations nous éclairent sur certaines questions posées par la commission d'experts, il apparaît de l'aveu même du gouvernement que la coordination de ces deux services d'inspection bien distincts fait actuellement défaut, puisque le Conseil chargé de coordonner leur action ne se réunit plus. Par ailleurs, les informations relatives aux sources de financement des services d'inspection syndicaux sont très limitées et nous devons constater une nouvelle diminution de leur nombre par rapport au nombre qui figure au rapport de la commission d'experts. Le nombre d'inspecteurs sociaux est en effet passé de 28 à 24.

Les articles 20 et 21 de la convention n° 81 prévoient l'obligation de publier et de communiquer à l'OIT un rapport annuel sur le fonctionnement de l'inspection du travail, et en déterminent le contenu. Il apparaît que de tels rapports annuels ne sont plus communiqués depuis de nombreuses années à l'OIT par le Tadjikistan. Selon les informations écrites transmises par le gouvernement, les rapports réguliers sont



pourtant bel et bien rédigés et compilés au niveau du ministère du Travail. Il est dès lors regrettable que ces rapports ne soient pas transmis à l'OIT comme l'imposent les articles 20 et 21 de la convention n° 81.

Il est important que le Tadjikistan fournisse en temps utile davantage d'informations sur le fonctionnement de ses services d'inspection et sur les résultats de leurs actions, afin que l'OIT puisse contrôler le respect des obligations du Tadjikistan au regard de la convention n° 81.

Le Tadjikistan a ratifié la convention n° 81 en 2009. Dès 2012, la commission d'experts avait pointé du doigt le manque d'informations transmises par le Tadjikistan sur l'application de la convention n° 81. Ce n'est donc pas un fait nouveau.

Par contre, et c'est beaucoup plus inquiétant, ce n'est que récemment que le Tadjikistan semble avoir franchi un cap dans la violation de la convention n° 81. En effet, les premières traces de l'introduction d'un moratoire sur les inspections du travail remontent à 2018. Et c'est certainement cette évolution inquiétante qui vaut au Tadjikistan d'être sévèrement pointé du doigt par la commission d'experts par une double note de bas de page, et à raison. Le Tadjikistan bénéficie pourtant d'un programme pour la promotion du travail décent pour la période 2020-2024, dont l'un des objectifs est d'augmenter l'efficacité de l'inspection du travail.

L'OIT, et particulièrement la commission, se doit d'adresser un message fort au Tadjikistan, l'invitant à assurer la pleine conformité de sa législation et de sa pratique avec la convention n° 81 et à respecter ses obligations de rapportage.

**Employer members** – I would like to start the discussion for the first case on our list, Tajikistan, by underlining the importance of the Labour Inspection Convention, No. 81, both for the protection of workers and for a functioning economy.

In a previous discussion on this Convention, the Employers' group noted that "if ILO Conventions and Recommendations articulate the spirit, philosophy and principles of the ILO, labour inspection is the lifeblood that sustains ILO instruments once they are incorporated in law and regulation and ensure that ratified instruments are implemented in practice". It is no coincidence that Convention No. 81 was classified by the International Labour Conference as a priority Convention because of its importance for the governance of national institutions to promote employment and ensure compliance with labour standards.

Moreover, more than one year into what arguably is the worst public health and economic crisis since the 1918 influenza pandemic, cooperation between labour inspectorates, governments, employers and workers, has never been more valuable in protecting those in the workplace and accelerating economic recovery. In particular, the pandemic has strengthened the key role of labour inspectorates as suppliers of "technical information and advice to workers and employers concerning the most effective means of complying with the legal provisions", as mentioned in Article 3 of the Convention.

Convention No. 81 was ratified by Tajikistan in 2009. This is the first time the Committee has discussed Tajikistan's application of this Convention. Disturbingly, however, this discussion comes under a cloud, having been classified by the Committee of Experts as a "double-footnoted" case as my Worker colleague has already mentioned. This matter has been the subject of three observations in 2018, as well as of multiple direct requests since 2012.

In prior observations the Committee of Experts expressed its concern about the limited functionality of the labour inspectorate over at least the last four years, and the lack of meaningful progress in that time.

Key concerns in this regard include:

- the existence of a dual system of inspection undertaken in parallel by the state and trade unions, and the lack of a central authority entrusted with the supervision and control of labour inspection generally;
- a moratorium on all types of inspections of the activities of business entities in manufacturing from February 2018 to 1 January 2021;
- statutory restrictions on the power of inspectors regarding the frequency, duration and scope of inspections and the ability of labour inspectors to undertake inspection visits without previous notice;
- lack of clarity on the powers of inspectors to remedy defects observed in plants, layout or working methods, which could be a threat to the health and safety of workers; and
- no publication of the annual report of the labour inspection services by the central inspection authority.

The Employers' group would like to thank the Government for shedding light on the functioning of labour inspectorate in Tajikistan, as well as for clarifying the reasons behind the moratorium.

We will focus our comments, from here, on three of the most concerning issues in this case.

First, how the labour inspectorate operates. This is vital, particularly since the Convention essentially requires a system of labour inspection under the supervision and control of a central authority, and where "collaboration between officials of the labour inspectorate and employers and workers or their organisations" is required under Article 5(b).

Furthermore, Articles 3(2), 4 and 6 of the Convention respectively state that:

Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.

In the case of a federal State, the term central authority may mean either a federal authority or a central authority of a federated unit such as a State.

The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

Given the clarity of the wording of the Convention it is all the more concerning that the labour inspectorate system in Tajikistan is run simultaneously by the State Inspection Service for Labour, Migration and Employment, and the Federation of Independent Trade Unions.

We remain unclear whether all inspections are conducted jointly, but it is clear from the Committee of Experts' observations that there is close interaction between the two inspection branches. Since 2015, pursuant to the Law on Inspections of Economic Entities No. 1269, a Council for the Coordination of the Activities of Inspection Bodies has been created, with the power to coordinate inspection plans of inspection bodies, to avoid duplication.

Furthermore, in its 2018 observations the Committee of Experts noted that section 353 of the Labour Code obliges employers to fund the work of the trade union labour inspectorate.

All of this is at odds with the Convention. Indeed, in the Employers' view, this seems to institutionalize a breach of the Convention.

While Convention No. 81 allows flexibility in the way inspections must be conducted and is accommodating of a variety of systems of labour inspection that are placed under the supervision and control of a central authority, the actual practice seems rooted in

historical practices (sharing inspectorate responsibilities between the State and the trade unions) which are common in the past in Central and Eastern Europe. However, we are not in the past, and Tajikistan's practice is not in line with Convention No. 81.

While on this point, the fact that labour inspection duties are covered by trade unions at all is problematic from the perspective of impartiality and independence and in breach of Article 6 of the Convention. In the 2006 General Survey, the Committee of Experts noted that "as can be seen from the preparatory work on Convention No. 81, public servant status was considered necessary for inspection staff as it was the status best suited to guaranteeing them the independence and impartiality necessary to the performance of their duties".

The Employers' group considers that more than ten years into the ratification of Convention No. 81, Tajikistan should be able to fully implement Articles 4 and 6 in law and in practice, as well as all other Articles of the Convention previously mentioned.

Under the terms of the Convention the labour inspectorate must function as an autonomous system under the supervision and control of a central authority, in cooperation with other relevant public or private institutions and in collaboration with employers and workers or their organizations. A system whereby two separate bodies of labour inspection, one run by the trade unions (and, we understand, funded with the employers' contributions) and the other by the Ministry of Labour, is not compatible with Convention No. 81.

The Employers therefore urge the Government to: ensure that inspection staff be exclusively composed of public officials; place the labour inspection under the supervision and control of a central authority; and replace the dual system of inspection by a system that is compatible with Convention No. 81.

Our second key issue relates to the activities of labour inspectors. The Committee of Experts noted that Law No. 1269 partially restricts the power of inspectors, including limiting with the frequency of inspection, duration, ability to undertake inspections without previous notice and the scope of inspections. The Committee of Experts also mentioned lack of clarity around the power of inspectors to remedy defects observed in plants, layout or working methods, which could be a threat to the health and safety of workers.

Such limitations are clearly incompatible with the Convention, particularly with Articles 12 and 16. The former provision outlines the power of labour inspectors “to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection” and the latter that “workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions”.

These provisions are crystal clear in their intent and ambit, and lack of compliance is hard to excuse. The capacity to remedy dangerous situations should be adapted in compliance with Article 13 of the Convention.

The Employers’ group reiterates the need for independent and unrestricted operation of labour inspection so as to guarantee good governance, transparency and responsibility in the system for protecting workers’ rights. The Employers’ group urges the Government to lift these statutory limitations to inspectors’ powers as soon as possible.

The third serious issue is the moratorium, previously mentioned by the Workers, imposed by Decree on all types of inspections of the activities of business entities in the area of manufacturing until 1 January this year, and we understand this no longer exists, that it was not continued past that date. The Employers note that the moratorium, even

before it was lifted on 1 January was not universal and applied only to new organizations during the first two years of operation, except organizations belonging to the high-risk group, which was still subject to visits by labour inspectors but not more than twice per year.

We also note that even during the moratorium, subject to reasonable grounds, including responding to complaints, claims of inquiries made by workers and other persons, labour inspectors have conducted unscheduled and surprise inspections at such enterprises in connection with issues of compliance with labour legislation, OSH standards and regulations. The moratorium did not apply to the supervisory and verification powers of trade union inspectors, as under the national legislation, trade unions function independently from government bodies and any interference in their legal activities is unlawful. Although this is very concerning for other reasons mentioned under – above related to Article 6 of Convention No. 81. Indeed the irony of the government being able to proscribe the activities of its officials, but not those of the union officials undertaking the same functions is inescapable.

During the moratorium, the judicial authorities, the representatives of the council for the coordination of the activities of inspection bodies regularly looked into the complaints and claims received from the persons concerned at all industrial facilities and without exception regardless of the moratorium. To be clear, the Convention does not allow for the exemption or exclusion of manufacturing sector from the scope of labour inspection. There is no rational correlation between improved public service management and the suspension of labour inspection.

I will conclude by saying that, finally, Convention No. 81 provides for the publication and communication to the International Labour Office of an annual inspection report, which has to include information on the legal basis of labour inspection, the composition

and the distribution of inspection personnel, their areas of competence and their activities, as well as industrial accidents and cases of occupational disease. This publication provides a snapshot on the labour inspection in the country every year and must not be neglected.

The Employers' group requests the Government to transmit in timely fashion a copy of the annual report on labour inspection to the ILO Office in line with Article 20 of the Convention.

*Interpretation from Russian: Worker member, Tajikistan (Mr NEGMATZODA)* – I would like to begin by stating that I represent the trade union movement in Tajikistan.

The trade unions in Tajikistan are recognized as entities that can represent the workers of Tajikistan in accordance with our Labour Code and fully in line with international labour standards. All standards relating to occupational safety and health are something that we are particularly concerned with.

We therefore seek to ensure compliance with all relevant Conventions, including Convention No. 81. We recognize, in the light of issues that have been raised, that there is some information that has to be provided to you.

First of all, in Tajikistan, the situation is that it is not possible for us to ensure that the state labour inspectorate carries out inspections fully in line with the mandate that should be borne by it.

We recognize that the problem is that, when it comes to the State Inspection Service for Labour, Migration and Employment, they are not able to carry out inspections in the independent and autonomous way that they should.

We recognize the importance of protecting workers' rights in Tajikistan and we recognize that in the relevant texts, for instance, in Article 11, the powers that are held



by the state inspection service are supposed to be exercised in a way that is agreed in accordance with the tripartite partners.

But nonetheless there are a number of questions that have to be answered, particularly relating to the sources of funding for the Inspectorate of the Federation of Independent Trade Unions.

I can assure you that the budget that we have has been constantly in decline since 2008. Therefore, because of the way the budget has been decreasing, we have not been able to ensure that the labour inspectorate which operates from the budget of the employers is in fact being funded the way that it should.

We recognize the importance of efforts to ensure that there can be a truly independent inspectorate in the country and we must recognize that the labour inspectorate does have a plan of work which is in the statutes. Nonetheless in terms of the way its work is actually being carried out, it is not in fact in line with what it is required to do.

If you look at the functions of the state inspection service within the Ministry, alongside the Independent Federation of Independent Trade Unions, you see that there is a situation in which it is not possible to fully guarantee the rights of workers to have their fundamental rights, including occupational safety and health, fully respected. We have recognized that there have been a very large number of violations of our Labour Code, which have been established by the inspectorate and which have not yet been fully investigated.

On the question of the authority of the inspectorate to carry out inspections, including periodical unannounced inspections into specific issues: here a certain amount of work is being undertaken, certainly within the organizations at the enterprise level. When there is an accusation of a violation of the provisions of the Labour Code and when

workers feel that their rights are not being respected, there is a grievance procedure through which they can submit their complaints.

But the periodicity of inspections is determined by the labour inspectorate itself, in accordance with the relevant provisions of the Labour Code. That being so, the state inspection service is in touch with representatives of the trade unions who do indeed have the right, through the trade union bodies, to provide information when they think there may have been a violation of the Labour Code.

Trade unions, in the way that they work with the labour inspectorate, work closely with the state inspection service. Despite the difficult situation in the country over the past couple of years because of the COVID-19 pandemic, there has nonetheless been more than 190 investigations of violations that have been flagged in this way to the state inspection service.

The state inspection service works throughout the country in all of the different administrative regions. But its work has been made very difficult because it has had to halt or interrupt some of the work as a result of certain security and safety concerns. Yet, nonetheless, it has been possible to intervene in certain specific cases where workers were able to raise concerns. They have identified a number of violations of workers' rights. These are issues that have been raised in the trade union newspaper *Solidarity* and there has also been information that has been made available over television broadcast and radio broadcasts.

A lot of work has been done in working with different NGOs and other bodies of civil society within our country. We worked on a tripartite basis with employers and workers, as well as government bodies, and they have sought to monitor activities especially when it has been recognized that there has sometimes been problems where there has been an overlap in terms of the two parallel inspectorate structures doing the same thing.

They have recognized that they now have to work together and ensure that they do not end up duplicating the work done by another body.

**Government member, Portugal (Mr CLAUDINO DE OLIVEIRA)** - I have the honour to speak on behalf of the European Union (EU) and its Member States. The candidate countries, the Republic of North Macedonia, Montenegro and Albania, the European Free Trade Association (EFTA) country Norway, Member of the European Economic Area (EEA), as well as the Republic of Moldova align themselves with this statement.

The EU and its Member States would like to underline the importance we attribute to the promotion, protection and respect of human rights, including labour rights, as safeguarded by ILO Conventions.

We also believe that safe and healthy working conditions should be ensured for all, everywhere, and we support the recognition of the right to safe and healthy working conditions as a fundamental right at work, as laid down in numerous ILO Conventions.

The EU and its Member States are therefore committed to the promotion of universal ratification, and the effective implementation and enforcement of fundamental international labour standards. Labour inspection is key in promoting and safeguarding decent working conditions, and compliance with ILO Convention No. 81 is essential in this respect.

The EU and its Member States are long-term partners of Tajikistan, with relations guided by the bilateral partnership and cooperation agreement, which came into force in 2010. Jointly with Tajikistan, we are also considering enhancing our relations through a new enhanced Partnership and Cooperation Agreement.

We welcome Tajikistan's interests to become the GSP+ beneficiary, which would imply an even stronger commitment to implementing ILO fundamental Conventions. An effective labour inspection system is crucial to monitoring the implementation of labour standards.

We note with satisfaction that the moratorium on all types of inspections of the activities of business entities in manufacturing since February 2018, as clarified in the written information from the Government, has now expired, with no plans for its renewal. As the Government maintains that some inspections continued during the moratorium, we invite the Government to clarify the impact of the expiry on the number and rigour of inspection activities.

Furthermore, we underline the importance of ensuring that an annual report of the labour inspectorate is published, containing information on all subjects listed under Article 21 of Convention No. 81, and is transmitted to the ILO in due time.

We are deeply concerned about the lack of clarity and the duality of inspection functions assumed by the Government and trade union labour inspectors in the Republic of Tajikistan.

We appeal to the Government to provide the requested information to the Committee on the developments in this regard. In addition, information should be provided on the funding of the trade union inspectorates and the manner in which they coordinate with the state inspection service.

In line with the Committee of Experts' recommendation, the EU and its Member States urge the Government of Tajikistan to provide copies of the laws and regulations governing the status and conditions of service of state labour inspectors and the duties and powers of trade union inspectors. Additional information on state labour inspectors'

conditions of service in relation to the conditions applicable to similar categories of public servants and trade union inspectors is also requested.

We expect the Government to provide information on the application of the aforementioned laws. Moreover, we appeal to the Government to remove the restrictions and limitations for labour inspectors so as to ensure that they are empowered to enter, freely and without previous notice, to undertake inspections as often and as thoroughly as necessary, and to remedy the defects observed. The EU and its Member States will continue to support the Government of Tajikistan in this endeavour.

**Membre travailleuse, France (M<sup>me</sup> ALEXANDRE)** – Il est essentiel de rappeler le rôle fondamental de la convention n° 81 sur l'inspection du travail, du fait de son interdépendance avec l'ensemble des normes internationales du travail. En effet, sans une inspection du travail disposant de moyens humains, financiers et légaux lui permettant d'être efficace, c'est l'ensemble des droits fondamentaux et des droits du travail qui ne peuvent pas être contrôlés dans leur bonne mise en œuvre. Son rôle est d'autant plus important en ces temps où la pandémie regagne du terrain, rendant le risque de contamination sur le lieu de travail omniprésent. Il est d'autant plus nécessaire de s'assurer que les règles de santé et sécurité au travail en général et spécifiquement liées aux risques de la COVID-19 sont respectées.

Le cas qui nous occupe aujourd'hui est problématique dans le sens où, premièrement, le gouvernement n'a pas respecté son obligation de rapport sur ladite convention, pourtant ratifiée en 2009, alors que des observations avaient déjà été formulées en 2018 par la commission d'experts sur le sujet. Deuxièmement, des moratoires ont été mis en place en 2018, 2019 et 2020, jusqu'au 1<sup>er</sup> janvier 2021, afin de déroger à l'inspection du travail.

La commission d'experts exprime une forte inquiétude quant à ces moratoires sur les inspections du travail, même inquiétude concernant la loi n° 1269 sur les inspections d'entités économiques qui contient des restrictions similaires sur les prérogatives des inspecteurs, concernant notamment la fréquence, la durée et le champ couvert par ces inspections. Cette loi contrevient aux principes et dispositions énoncés dans la convention n° 81.

La commission d'experts ainsi que la commission ont déjà mentionné régulièrement des violations de la convention n° 81 dans la région, en Ukraine ou en Moldavie, par exemple. Les travailleurs s'inquiètent donc d'une tendance que l'on peut qualifier de régionale de déroger à l'inspection du travail par des moratoires sur les inspections du travail ou par des lois contenant des restrictions analogues, dans le but de favoriser les relations commerciales, sur le conseil de la Banque mondiale notamment, ce qui nous inquiète fortement. En effet, dans plusieurs documents tels que le Diagnostic-pays systématique sur le Tadjikistan de mai 2018 ou encore le Cadre pour le partenariat-pays pour le Tadjikistan d'avril 2019, pour ne citer qu'eux, la Banque mondiale apporte son soutien au gouvernement pour réduire ce qu'elle qualifie de «fardeau administratif» causé par ce qu'elle juge «un nombre important d'inspections» et encourage le gouvernement à mettre en œuvre sa réforme qu'elle appelle «modernisation de l'inspection du travail». Il est ici question de la cohérence des institutions du système multilatéral qui, visiblement dans le cas qui nous occupe, pour certaines d'entre elles, n'hésitent pas à remettre en question la légitimité même des normes internationales du travail.

Les travailleurs sont également inquiets de constater que, à tout moment, le gouvernement peut imposer ce type de moratoire ou légiférer dans le but de réduire les prérogatives et donc l'efficacité de l'inspection du travail, faisant alors peu de cas de ses

obligations internationales, y compris de son obligation de faire rapport à la commission d'experts.

Il est essentiel que l'inspection du travail puisse mener à bien ses missions telles qu'envisagées par la convention n° 81, tant sur le volet de la prévention que sur celui des sanctions, ceci afin d'assurer la garantie effective des droits des travailleurs.

**Government member, United Kingdom of Great Britain and Northern Ireland**

**(Ms SHEARMAN)** – In January 2022, the UK and Tajikistan will celebrate 30 years of diplomatic relations. Through dialogue and targeted programmes, we support Tajikistan's economic and social development. Through our partnership we seek to ensure the promotion and enhancement of the rules-based international system, effective governance, the rule of law and human rights.

The UK notes the various and important concerns raised by the Committee of Experts in relation to Tajikistan's coherence to Convention No. 81. These include the recent moratorium on inspections in industrial workplaces, the incompatibility of national legislation with the Convention, in relation to the ability of labour inspectors to make visits without previous notice and as often as necessary, and the failure to provide necessary annual reporting on the work of the labour inspectorate to the ILO.

These are clear and serious violations of the Convention. We note Tajikistan's response to the concerns raised. While the moratorium on inspections has now expired, we urge the Government to take all necessary measures to ensure that no further restrictions of this nature are placed on labour inspections in the future.

We note the statement that all checks undertaken by the State Inspection Service for Labour, Migration and Employment comply fully with the provisions of Convention No. 81.

We also note the willingness of the Government to ensure that mandatory annual reporting is provided to the ILO in a timely fashion. We appeal to the Government to engage closely, openly and transparently with the ILO in future and to strive towards full compliance with the provisions of Convention No. 81.

The United Kingdom will continue to support the Government of Tajikistan on achieving this and looks forward to working further with Tajik partners on effective governance and policy innovation and in creating employment opportunities for their people.

**Membre gouvernemental, Suisse (M. SCHÄRER)** – L'objectif de l'inspection du travail est d'assurer la bonne gouvernance, la transparence et la responsabilité d'un système d'administration du travail, et également de contribuer à l'application des normes internationales dans la législation du travail nationale. Pour assurer le bon fonctionnement de l'inspection du travail, un mécanisme solide pour en contrôler le respect doit être mis en place, ce qui est décrit dans la convention n° 81 sur l'inspection du travail.

La Suisse salue les progrès accomplis au Tadjikistan au cours des trois dernières décennies, notamment en ce qui concerne les ratifications des normes internationales du travail. Tout en reconnaissant les efforts déployés par le gouvernement du Tadjikistan pour moderniser les conditions de travail, la Suisse dénonce un moratoire imposé à l'inspection du travail. Le moratoire laisse la porte ouverte à un excès dans les pratiques de travail telles que l'engagement de mineurs, les travaux non rémunérés, les heures supplémentaires, en particulier dans les travaux difficiles comme les mines, les cimenteries. La Suisse serait intéressée de connaître les actions entreprises par le gouvernement du Tadjikistan pendant ce moratoire, notamment pour s'assurer que le travail des enfants est contrôlé.



Dans cette perspective, la Suisse encourage le gouvernement à continuer ses efforts et à mettre en place toutes les mesures demandées par la commission d'experts. En particulier, elle encourage le gouvernement à mettre en place dès que possible toutes les mesures législatives nécessaires pour mettre fin au moratoire sur les inspections du travail et à renforcer le fonctionnement de son système de contrôle. Le gouvernement devrait permettre aux inspecteurs d'effectuer des visites sans avertissement préalable aussi souvent et aussi soigneusement qu'il est nécessaire, conformément à la convention n° 81.

Enfin, la Suisse compte sur la volonté du gouvernement d'intensifier ses efforts, et de saisir cette opportunité pour réformer son système d'inspection, de lutter contre la corruption dans ce système, d'y apporter plus de transparence, et d'offrir à ses citoyens de meilleures conditions de travail et de bien-être.

*Interpretation from Russian:* **Another Government representative, the Deputy Minister of Labour, Migration and Employment (Mr MAHMADULLOZODA)** – On 19 May 2021, before the start of the International Labour Conference, the Government had the opportunity to speak with specialists from the ILO on the issue of labour inspection. As you know, in 2009, we ratified Convention No. 81. Earlier in the discussion, another Government representative, Mr Jamshed Khamidov, presented the information that we had sent for the consideration of the Committee. We have taken very seriously all the recommendations and conclusions of the Committee of Experts, and we have started indeed to fulfil those recommendations, and to resolve the issues identified.

We understand that there is additional information required with regard to the relationship between the State inspection service and the trade union inspection service. We believe that they are now working together quite well. The labour inspectorate of the Government of Tajikistan, we believe, is in line with the ILO requirements, and we have

tried to respond to your questions. This labour inspection service tries to ensure the necessary labour conditions for workers.

With regard to the moratorium, a law was introduced for a moratorium on inspections in manufacturing by the state inspection service, and then subsequently, the moratorium was extended. But there were certainly inspections in areas which we considered to be critical: our inspectors were able to inspect the factories where we had doubts.

With regard to inspection plans, we believe that we are in line with the requirements under Convention No. 81. The plans will be considered by the Ministry of Labour, Migration and Employment of the Republic of Tajikistan, and if we believe it necessary, we will raise issues and also get in contact with other appropriate bodies in that respect.

With regard to the annual labour inspection reports, there have been concrete measures taken in this regard. Thanks to the help from the ILO in this area, we would like to say that every year there is a report published by the State labour inspectorate, in accordance with the reporting responsibilities under the Convention.

Under the laws of the Republic of Tajikistan, state labour inspectors are not allowed to be involved in labour disputes. However, they can be invited to court, and subpoenaed to court as witnesses.

I should note that migration control is overseen by the migration division of the Ministry of Labour, Migration and Employment, and there are labour agreements with regard to labour protection, and also with regard to the protection of workers from other countries. The State labour inspection also looks at issues of labour relations between foreign workers and national employers, and also between national workers and foreign workers.

I would like to note that, last year, a reform of the labour inspection system in Tajikistan was undertaken, and – partly with a view to providing greater authority to labour inspectors and partly with regard to changing the way that they work – there were some structural changes of the labour inspectorate undertaken at that time.

I should like to say that the comments and the proposals from the Committee of Experts will be carefully considered. We will undertake the necessary additional measures, in terms of both providing the necessary information and in terms of activities. We would like to assure you that the Republic of Tajikistan takes very seriously its responsibilities under Convention No. 81.

**Employer members** – The rich debate we just had in fact proves the continued relevance of Convention No. 81 for the world of work.

The Employers' group considers that in a State in which the rule of law prevails, a modern labour inspectorate and an independent and judicious legal framework are essential to establishing an environment conducive to enterprise, increasing legal and economic security and reducing the social risks to which investors are exposed. Such a system is capable of maintaining fair competition, promoting investment, economic growth and employment creation. As we have said, this case presented three elements of major concern, the lack of essential authority to supervise and control labour inspections, combined with concerns over a dual system of inspection functions assumed by State and the trade union labour inspectors. The other restrictions, by virtue of Law No. 1269 on inspection of economic entities on the power of inspectors regarding the frequency, duration and scope of inspections, and the ability of labour inspectors to undertake inspection visits without notice, and the moratorium imposed by Decree No. 990 of January 2018 on all types of inspections of the activities of business entities in manufacturing until January this year. Following the debate, the Employers' group invites

the Government to commit further to bring its legislation and practice into line with Convention No. 81.

We would like to conclude this brief summary by requesting the Government to: replace the dual system of labour inspection by a system in line with Convention No. 81, with guarantees of an independence and impartiality of labour inspectors, in particular by ensuring that labour inspection staff is composed of public officials only; to ensure that effective collaboration between the officials of the labour inspectorate and employers' and workers' organizations are established and are effective; to ensure that inspections are possible as often as necessary without prior notice and within the scope indicated in Articles 12 and 13 of the Convention; and to avail itself of ILO technical assistance in order to adjust the various elements of inadequacy of the Tajik labour inspection system with Convention No. 81; and to refrain from imposing any further moratorium on labour inspections in the future.

On the understanding that this view of the information provided by the Government about the expiration of the moratorium on labour inspection is no longer in effect, we call upon the Government to refrain from imposing any such restrictions in the future.

**Membres travailleurs** – Il faut entamer ces conclusions par un rappel important: tout moratoire imposé à l'inspection du travail est une violation grave de la convention. Le fait que ce moratoire ne soit plus applicable à ce jour n'enlève en rien la gravité de cette violation qui a eu cours de 2018 à 2021.

Il est donc essentiel que le gouvernement prenne toutes les mesures nécessaires pour garantir qu'aucun autre moratoire ne sera imposé aux services d'inspection à l'avenir. Pour permettre le suivi de la situation, le gouvernement veillera à fournir toute information sur l'évolution à cet égard et sur le nombre de visites réalisées par les services d'inspection.

Nous l'avons vu, de nombreuses restrictions s'imposent aux inspecteurs sociaux. Afin de permettre un fonctionnement indépendant, libre et efficace des services d'inspection, il est fondamental de lever ces restrictions. Le gouvernement veillera donc à garantir toutes les compétences aux services d'inspection de l'État en conformité avec la convention n° 81.

Nous avons également constaté que le gouvernement reconnaissait dans ses observations écrites que l'organe de coordination du système de services d'inspection de l'État et du système de services d'inspection syndicaux ne se réunissait plus depuis quelque temps. Il est impératif de relancer le fonctionnement de cet organe afin d'assurer la bonne coopération de ces deux systèmes de services d'inspection et d'en garantir l'efficacité.

Nous demandons par ailleurs au Tadjikistan de pleinement œuvrer à la réalisation de l'objectif 2.2 de son programme pour la promotion du travail décent mis sur pied en collaboration avec l'OIT qui s'applique pour la période 2020-2024, à savoir l'augmentation de l'efficacité de son inspection du travail.

Si l'existence de services d'inspection syndicaux n'exonère pas le gouvernement de mettre en place des services d'inspection de l'État pleinement compétents et disposant des moyens nécessaires à leur action, en conformité avec la convention n° 81, nous ne pouvons toutefois pas partager l'interprétation du porte-parole du groupe des employeurs selon lequel il serait incompatible avec la convention de confier des missions d'inspection du travail aux syndicats, en complément aux services d'inspection de l'État.

Le gouvernement veillera à l'avenir à ce que l'autorité centrale d'inspection publique dans un délai raisonnable un rapport annuel qui sera par ailleurs communiqué à l'OIT, conformément aux articles 20 et 21 de la convention n° 81. Le gouvernement communiquera également utilement à l'OIT l'ensemble des rapports des années

précédentes de son autorité centrale d'inspection, qui n'ont jusqu'ici pas été communiqués.

Pour mettre en œuvre toutes ces recommandations, nous demandons également au Tadjikistan d'impliquer pleinement les partenaires sociaux.

De manière générale, nous avons aussi dû regretter le manque d'informations transmises en temps utile par le gouvernement, ce qui complique inévitablement les travaux des organes de contrôle de l'OIT. Nous demandons dès lors au gouvernement de veiller, de manière générale, à respecter ses obligations constitutionnelles vis-à-vis de l'OIT et à transmettre en temps utile toutes les informations demandées.

Plus particulièrement, nous demandons au gouvernement de transmettre en temps utile toutes les informations relatives aux pouvoirs des inspecteurs sociaux de prendre des mesures destinées à éliminer les dangers pour la santé ou la sécurité des travailleurs, ainsi que des statistiques à cet égard.

Nous lui demandons également de transmettre en temps utile toutes les informations concernant le service d'inspection de l'État, que ce soit en ce qui concerne les relations avec les services d'inspection syndicaux, leurs compétences respectives, le statut des inspecteurs sociaux, les sources de financement, la coordination des services d'inspection de l'État avec les services d'inspection syndicaux et sur le nombre d'inspecteurs respectifs qui les composent.

Afin d'assurer la mise en œuvre effective de toutes ces recommandations, nous invitons le gouvernement à accepter la tenue d'une mission technique du BIT dans le cadre de l'assistance technique de l'OIT déjà en cours au Tadjikistan.

**Présidente** – Nous sommes arrivés au terme de l'examen de ce cas. Je vous informe que la lecture du projet de conclusion concernant ce cas aura lieu, comme pour tous les

autres cas individuels, lors de la séance de la commission, c'est-à-dire le vendredi 18 juin 2021.

Avant de clore nos travaux de cet après-midi, je vous informe que le procès-verbal verbatim de la séance d'hier relative à la discussion de l'Étude d'ensemble est maintenant disponible sur la page de la commission. Vous avez jusqu'à mardi 8 juin, 13 heures, pour déposer les éventuels amendements que vous souhaiteriez apporter à la transcription de la déclaration que vous avez formulée.

Nous arrivons donc à la fin de notre ordre du jour. Notre commission poursuivra ses travaux lundi, à partir de 13 heures précises, heure de Genève, avec la discussion de deux cas individuels: le Bélarus, concernant la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948; et le Ghana, concernant la convention (n° 182) sur les pires formes de travail des enfants, 1999.

Je vous souhaite à toutes et à tous une bonne suite du week-end et à lundi.

*The sitting closed at 4.10 p.m.*

*La séance est levée à 16 h 10.*

*Se levantó la sesión a las 16.10 horas.*