

Bosnia and Herzegovina

Labour Inspection Needs Assessment and Work Plan

ILO - DWT/CO for Central and Eastern Europe

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List of Acronyms:

ARDP - Agricultural Rehabilitation and Development Project

BD - Brcko District

ELMO - Enabling Mobility Project

EU - European Union

FBIH - Federation of Bosnia and Herzegovina

GDP - Gross Domestic Product

ILO - International Labour Organization

IMF - International Monetary Fund

LFS - Labour Force Survey

OSH - Occupational Safety and Health

PPE - Personal Protection Equipment

RS - Republika Srpska

SPIRA - Streamlining Permit and Inspection Regimes Activity Project

SBA - Stand-By Arrangement

UNHCR - Office of the United Nations High Commissioner for Refugees

USAID - United States Agency for International Development

Introduction

Effective systems of labour inspection are paramount for inclusive societies and developed economies. Through labour inspection, governments engage with social partners and other relevant stakeholders to give effectiveness to national policies and legal frameworks on labour and working conditions.

Labour inspection can help businesses progress by encouraging decent work and its competitive benefits, thereby helping to make fundamental social and economic human rights a reality for workers.

In Bosnia and Herzegovina, which still faces institutional challenges as a result of the profound transformations following the dismantling of Yugoslavia and the war, labour inspection can be of vital importance for improving living conditions. Labour inspection can unite the government, employers and trade unions around common goals related to the implementation of international labour standards in the country.

This report focuses on the need to strengthen the labour inspection system in Bosnia and Herzegovina, specifically within the FBiH. The conclusions are based on document analysis and on the observations and interviews conducted during a mission to the country over a period of three days, visiting the cantons of Sarajevo, Tuzla, Zenica-Doboj and Central Bosnia. Meetings were held with the heads of inspectorates and representatives of trade unions and employers' organizations.

The aim of the assessment was to identify the good practices and shortcomings of the labour inspectorates and of the labour inspection system, taking into account the principles stated by Conventions 1947 (No. 81) and 1969 (No. 129). The mission contributed to a joint reflection by the national constituents on the progress needed to improve the effectiveness, efficiency and quality of the labour inspection services.

Based on these findings, the report contains a number of recommendations. Some of these are possible to implement in a short period (2012 or 2013). Others are included as references for possible future action, depending on opportunities, priorities and resources.

I. Social, economic and political background

1.1. Territory and administrative division

Bosnia and Herzegovina has an area of 51,197,000 sq. km, bordering Croatia, Montenegro and Serbia, and has a small coastline of 20 km.

Following the Dayton Peace Agreement¹, the country was divided in two Entities: the Federation of Bosnia and Herzegovina (51% of the territory) and Republika Srpska (49% of the territory). Each Entity has its own government, president, parliament and police force. In the north lies the Brcko District of Bosnia and Herzegovina (BD). The Brcko District was under international supervision until September 2012, when the Final Award Office in Brcko was closed and the District's authorities assumed full responsibility for governance of the District.

The administrative division of the Entities differs: the Federation of Bosnia and Herzegovina (FBiH) is divided into ten different cantons², each of them organized into municipalities (79 in total). Republika Srpska (RS) is divided into 62 municipalities. The latter follows a centralized model of government while the former is predominantly decentralized, giving broad jurisdiction to the cantons to define most of their social and economic policies.

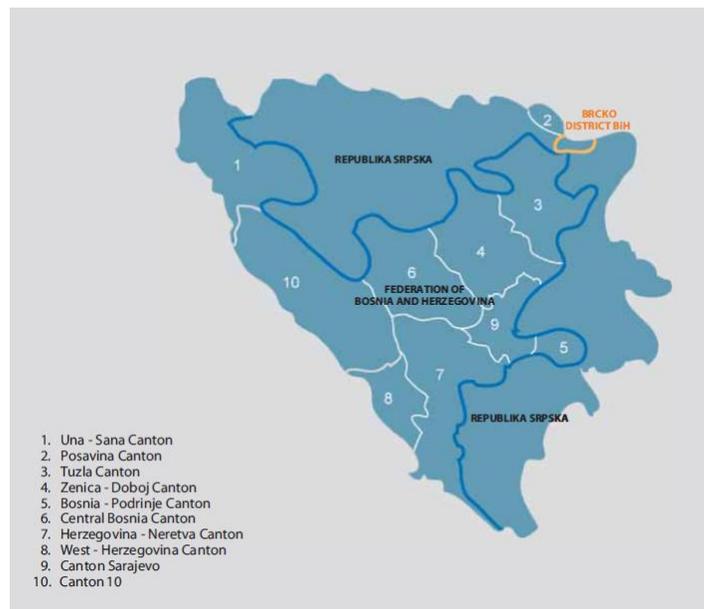


Image 1: Administrative map of Bosnia and Herzegovina

This complex administrative structure created by the Dayton Peace Agreement entails different legal frameworks and administrative practices in different places, which creates challenges for coordination at the national level.

¹ Signed in Paris on 14th December 1995.

² Una-Sana, Posavina, Tuzla, Zenica-Doboj, Bosnian Podrinje, Central Bosnia, Herzegovina-Neretva, West Herzegovina, Sarajevo and Canton 10.

1.2. Demography

The population in Bosnia and Herzegovina is estimated at 3.8 million inhabitants.³ The population size changed considerably as a consequence of the war. There are still 113,000 displaced persons from the war and 6,800 refugees from Croatia⁴.

Despite the relative stabilization over the past ten years, the share of the working age population has shown a negative growth rate of 5 per cent since 2006, when the Labour Force Survey was first carried out. These changes in the age structure in recent decades reveal a rapidly ageing national population.

1.3. Economy

Bosnia and Herzegovina's economy relies on the export of metals (steel, coal, iron, lead, zinc, manganese, bauxite and aluminium), vehicle assembly, textiles, tobacco production, wooden furniture, ammunition, domestic appliances and remittances. In the FBiH and BD, services are predominant. In RS, agriculture represents 1/3 of all economic activity. The FBiH contributes to more than 63% of the national GDP.

While small companies are predominant in the country, some companies are considered to be overstaffed, reminiscent of the centrally planned economy of the former Yugoslavia.



Image 2: Economic activities⁵

GDP per capita as of 2011 was USD 8,200. The average net wage was 836 KM.

Until 2009, Bosnia and Herzegovina was reporting economic growth, which increasingly relied on domestic demand expansion fuelled by foreign loans. Later, due to the global economic crisis and significant reduction of capital inflows, the economy grew at a moderate pace in the period 2010-2011. A three-year Stand-By Arrangement (SBA) worth US 1.57 billion/ EUR 1.2 million, concluded with the International Monetary Fund (hereinafter referred to as IMF) in 2009, helped safeguard macroeconomic stability. It included commitments to a number of structural reforms and fiscal adjustment measures. Some of these measures called for cuts to public expenditures, which were reflected in the reduction of wages and other costs by 10 per cent for all

³ Estimate of 30th June 2010. Statistical Agency of BiH. Available at http://www.bhas.ba/?option=com_content&view=article&id=52&itemid=80&lang=ba.

⁴ 2012 UNHCR country operation profile.

⁵ Extracted from *Bosnia and Herzegovina in Figures 2011*, Agency for Statistics of BiH.

budgetary beneficiaries. In order to consolidate budgets and conclude a new Stand-By Arrangement⁶ with the IMF, the governments introduced further budgetary restrictions, reflected in additional cuts in wages and allowances in the civil service sector. Such measures might have implications on the effectiveness of labour inspection, affecting human resource options and logistics.

1.4. Employment

The economic crisis led to a drop in employment levels at the end of 2008, with a decrease in formal sector wage employment and a rise in unemployment, informal employment and poverty. Most unemployment is long term: half of all unemployed persons have been out of work for at least five years, and a quarter of them for over ten years.

Labour market conditions remain weak. The Labour Force Survey (LFS), conducted annually in April/May in accord with the International Labour Organization (ILO) methodology, showed an unemployment rate of 28% in 2012, which had increased from 27.6% a year earlier.

With regards to women's participation in the labour force, the gender disparity in employment rates is remarkably high, and this discrepancy in employment rates between men and women persists across all age groups.

The high unemployment rate and the wide gap between official employment numbers and the results of the labour force survey imply the existence of a rather large informal sector. In fact, the informal economy is estimated to equal around 30-50 per cent of the national GDP⁷. This undeclared work is conducted either as informal employment or through the under-declaration of wages. Informality predominates in the agricultural sector and is less present in the industrial sector.

It has been estimated that around 5% of overall payroll contributions are lost through informal employment. Studies demonstrate that envelope wages are widespread, particularly in sectors such as construction. Practices vary from cash payments for minor construction works to the payment of wages as part of profits or dividends.

Informal workers also include persons not registered as employees who receive unemployment benefits or social benefits on different grounds, as well as people engaged in informal networks for smaller and private construction sites.

Awareness concerning the effects and implications of informal employment is low (Miheš: 2010). In 2007, an ad hoc campaign targeting informal employment was organized in RS, but its impact has since faded. In 2008, trade unions created a black list of employers engaged in informal employment relationships. Of the companies identified, about 30% were from the construction sector. In RS a joint committee to tackle undeclared work in construction was formed involving the government and social partners under the ILO's project on the Informal Economy, funded by the Irish Government.

⁶ In September 2012, the Executive Board of the International Monetary Fund (IMF) approved a 24-month Stand-By Arrangement of about EUR 405.3 million, or US 520.6 million, in support of the government's economic program for 2012–2014. The program aims to counter the effects of the worsening external environment and to address domestic structural weaknesses.

⁷ Krstić & Sanfey (2007), *Mobility, Poverty and Well-being among the Informally Employed in Bosnia and Herzegovina*, *Economic Systems*, 31 (3), pp. 311-335.

II. Previous technical cooperation focusing on labour inspection

Under the overarching goal of fostering legal compliance and enhancing law enforcement, the ELMO (Enabling Mobility) project, financed by USAID and with the support of the ILO, helped draft new OSH laws for both Entities that are compatible with Convention 155 and EU Directive 89/391⁸ and a new IT system for RS and the FBiH (not yet operational in all cantons).

All inspectors received laptops and printers under the USAID's ELMO and SPIRA projects and the World Bank's ARDP project. For a more detailed account, see 6.2.3. below.

III. International Labour Standards

Bosnia and Herzegovina has ratified 81 ILO conventions (77 of which are in force), including all governance conventions (including Conventions 81 and 129⁹) and fundamental conventions. With regards to labour administration, Convention 1978 (No. 150) has not yet been ratified.

The main comments from the Committee of Experts on the Application of Conventions and Recommendations regarding labour inspection relate to the inspection activities in agriculture and the prerogative of free entrance.

Concerning Convention 1969 (No. 129), the Committee noted the lack of official data on labour inspection activities in agriculture at the national and at entity levels. The Committee asked for information on training provided to labour inspectors on agriculture-related subjects, such as the handling of chemicals. According to recent data, this training has still not been organized.

Concerning Convention 1947 (No. 81), the Committee asked to be informed of how Bosnia and Herzegovina would plan to eradicate the requirement that labour inspectors be granted authorization from a supervisory authority before entering a workplace. This restriction on the free movement of inspectors was directly cited as a constraint during the mission in the Central Bosnia canton.

⁸ Upon the request of the governments, the ILO provided substantial comments on both draft OSH Laws and contributed to the OSH training sessions for the labour inspectorates in Bosnia and Herzegovina.

⁹ Ratified 2 June 1993.

IV. Legislation

The Entities and the Brcko District have separate labour legislation, including Labour and OSH Laws¹⁰. In the FBiH, jurisdiction is divided between the FBiH and the cantons in labour and social matters, and cantons are entitled to pass their own labour laws.

The ratification, application and report of the implementation of ILO standards remain the responsibility of the State of Bosnia and Herzegovina.

The main labour laws/ labour codes in Bosnia and Herzegovina are:

1. a) At the state level: Labour Code in the Institutions of Bosnia and Herzegovina (“Official Gazette of Bosnia and Herzegovina”, Nos. 26/04, 07/05, 48/05 and 60/10);
- b) In FBiH: Labour Code of 27 October 1999, amended in 2000 and 2003 (“Official Gazette of FBiH” Nos. 43/99, 32/00 and 29/03);
- c) In RS: Labour Code – Consolidated Text of 2007, (“Official Gazette of RS”, No. 55/07);
- d) In BD: Labour Code – Consolidated Text of 2006, amended in 2008 (“Official Gazette of BD of BiH”, Nos. 19/06 and 25/08).

In the FBiH, occupational safety and health is regulated by the Work/Occupational Safety Law, published in the Official Gazette of SRBiH No. 22/90, and the Labour Law, published in the Official Gazette Nos. 43/99, 32/00 and 29/03. The latter places a general duty on employers to prevent occupational hazards, control risks and provide special protective measures for vulnerable workers (minors and women). The Law applies to regular employees, persons employed on any basis, persons engaged in professional development training and persons on probation. An employer is defined as the legal or physical person conducting business activities, such as a financial institution, insurance organization, cooperative, administration body, association of citizens and other organization. The Law lays out the main obligations of employers regarding risk exposure, general safety measures, specific measures for hazardous activities, first aid, and medical surveillance of worker’s physical and psychological conditions.

The Law on Work/Occupational Safety is complemented by by-laws published in the Official Gazette No. 2/91¹¹.

The Law on Health Care, published in the Official Gazette No. 46/10, and the Law on Health Insurance (“Official Gazette”, Nos. 30/97, 7/02, 70/08 and 48/11) regulate the right to health care due to injury at work or professional disease.

¹⁰ According to Article III (3) of the Constitution, all government functions not expressly assigned to the national institutions shall be those of the Entities. These functions are foreign affairs and foreign trade policies, customs policy, monetary policy, finances of the institutions, immigration, refugee and asylum policies, international and inter-Entity criminal law enforcement, regulation of inter-Entity transportation, air traffic control and common and international communications.

¹¹ Rulebook on Methods and Procedures for the Conducting of Periodical Occupational Safety Inspections and Testing, Rulebook on Record-Keeping, Storing of Documents and Annual Report on Occupational Safety, Rulebook on Personnel and Technical Equipment Conditions to be Met by Organizations Conducting Periodical Safety Inspections, and Rulebook on Conditions to Determine Workplaces with Special Conditions and Medical Exams of Workers in such Workplaces.

In RS, the main legal provisions on occupational health and safety are set by the OSH Law, which was amended in 2010 (“Official Gazette of RS”, Nos. 1/08 and 13/10).

The OSH Law of RS and the Draft OSH law of the FBiH are aligned with the ILO Convention No. 155 and the Framework Directive 89/391/EEC, but in the FBiH parliamentary approval is still pending.

The BD also passed an OSH Law (“Official Gazette of BD of BiH”, Nos. 31/05 and 35/05).

V. Social partners

Social dialogue takes place mainly at the Entity level and the BD-level.

At the Entity level, three main workers’ organizations exist:

- the Confederation of Independent Trade Unions of Bosnia and Herzegovina;
- the Confederation of Trade Unions of Republika Srpska; and
- the Trade Union of the Brcko District.

Four main employers’ associations also exist at the Entity level:

- the Association of Employers in the Federation of Bosnia and Herzegovina;
- the Confederation of Employers of Republika Srpska;
- the Union of Employers’ Associations of Republika Srpska; and
- the Association of Employers of the Brcko District.

At the State level, the Association of Employers of Bosnia and Herzegovina is registered with the Ministry of Justice of Bosnia and Herzegovina and acts as an umbrella organization. The Association represents the Association of Employers’ of the Federation of Bosnia/Herzegovina and the Confederation of Employers of Republika Srpska, as well as the Association of Employers of the Brcko District. However, it does not represent the Union of Employers’ Associations of Republika Srpska. Workers are represented by the Confederation of Trade Unions of Bosnia and Herzegovina, which is internationally recognized but still not registered at the State level.

The Entities and Brcko District are autonomous in shaping their own legislation regulating the tripartite bodies for social dialogue. The establishment of employers’ and workers’ organizations is governed by the Laws on Associations and Foundations at the State, Entity and district levels.

Entity-level Economic and Social Councils meet regularly and provide their opinions on economic and social issues. A State-level Economic and Social Council has not yet been established.

A tripartite board organized to combat undeclared work in the construction industry was also formed in RS.

Collective bargaining takes place at the Entity level. In the FBiH, the federal government, the Confederation of Independent Trade Unions of Bosnia and Herzegovina and the Association of Employers in FBiH have

concluded a General Collective Agreement (“Official Gazette of FBiH”, No. 54/05). In RS, a new General Collective Agreement was concluded in May 2010 (“Official Gazette of RS”, No. 40/10).

In both Entities a number of sectorial collective agreements have been concluded between the most representative employers and workers’ organizations.

VI. Labour Administration and Labour Inspection System

6.1. Labour Administration

Convention No. 150, as previously mentioned, has not been ratified by Bosnia and Herzegovina.

At national level, power is vested in the Chairman of the Presidency (the Executive), the Chairman of the Council of Ministers (head of government), and the Council of Ministers (Cabinet). Legislative power is bicameral, with a House of Representatives and a House of the People. The judicial system at the national level is comprised of a Constitutional Court and the Court of Bosnia and Herzegovina. Distinct Ministries of Justice and courts also exist at the national and entity levels (including courts of second instance, Supreme Courts and Constitutional Courts).

Each Entity has competency in the areas of taxation (except for VAT taxes), business development and general legislation. They also separately regulate labour administration, through the Ministry for Labour and Social Policy in the FBiH and the Ministry of Labour and War Veterans and Disabled Persons’ Protection in RS.

In the FBiH, cantons have their own governments, ministries and parliaments addressing labour issues.

In the BD, the government – which is led by a mayor – consists of several departments, and the Department of Economy is tasked with labour and social issues.

6.2. Labour Inspection

6.2.1. Mandate and structure

As a result of Bosnia and Herzegovina’s administrative division, each Entity has its own inspection service. In both Entities, the labour inspectorate is part of the general inspection service. In the FBiH, a federal inspectorate shares the administrative mandate with inspectorates in each canton.

The institutional structure of labour inspection in the FBiH and in RS differs. In RS, a centralized body conducts labour inspection with offices covering different regions of the territory. In the FBiH there are federal and cantonal inspectorates. Administrative reform in the FBiH (“Official Gazette of FBiH”, No. 69/05) merged all inspectorates into a general inspection both at federal and cantonal level where the labour inspectorate is one of several organizational units of wider inspection services. In FBiH, the Federal Administration for Inspection

Issues¹² is organized into an area for labour relations and an area for occupational safety and health. In the cantons, organizational structures correspond in general to the same model.

According to the Labour Code, the Federal Administration for Inspection Issues¹³ supervises the implementation of the Labour Laws in the FBiH¹⁴; but since the Constitution provides cantons with jurisdiction over labour issues, cantonal inspectorates also have labour under their mandate, which leads to overlapping competencies in practice.

The Federal body has a mandate to:

- carry out inspection visits falling within the scope of Federal Inspection;
- decide upon appeals against first-instance decisions issued by the cantonal inspectors pursuant to cantonal regulations;
- coordinate work of the Federal and Cantonal Inspectorates;
- follow the work and conduct expert supervision and control of cantonal inspectors and inspection administrations within the scope provided by the federal regulations;
- provide expert assistance to the cantonal administrations for inspection affairs;
- enact programs and plans for inspection supervision within the federal Inspectorate;
- approve annual work programs related to the inspection supervision of cantonal administrations;
- maintain the records regarding those bodies subject to supervision in the FBiH;
- maintain the records of inspections conducted by the Federal inspectors; and
- ensure enforcement of regulations enacted by Bosnia and Herzegovina, setting out the jurisdiction for enforcement of these regulations in the Entities.

The Federal Administration is the competent authority to supervise some legal entities in FBiH, such as public companies or economic units of special relevance (for instance, mines). It serves a central authority role in the FBiH, although the cantons have their own jurisdictions and agendas for labour inspection. In practice, coordination is based more on the organization of joint visits with cantonal inspectors than on policies or other strategic approaches.

In the cantons visited, the institutional structures had minor variations. In Tuzla, for instance, the labour inspectorate is integrated into the cantonal inspection service as a specific department, alongside departments related to agriculture, water, forestry, veterinary medicine, the environment, the market and tourism, sanitation, science and education. From a total staff of 93 persons, the labour and social inspectorate includes 26 people: 15 in labour relations, ten in OSH and one in social affairs. Labour inspectors are lawyers and engineers.

¹² The others are the Cabinet of the Director, the Sector for Legal and General Issues, the Sector for Appeals and Legal Protection, the Sector for Material – Financial Issues, the Sector for Technical Support and Planning-Analytical Issues, the Inspectorate of Market – Tourism, the Inspectorate of Sanitary – Health – Pharmaceuticals, the Inspectorate of Urban – Environmental Issues, the Inspectorate of Traffic, the Inspectorate of Agriculture, the Inspectorate of Forestry, the Inspectorate of Water, the Inspectorate of Veterinary Medicine and the Inspectorate of Technical Issues.

¹³ See the organizational chart in Annex II.

¹⁴ In addition to the Labour Code of FBiH, five cantons have passed their own Labour Laws.

Communication problems between the federal services and the cantonal inspectorates were reported during the mission, namely the failure of the Federal Administration to inform the local authorities of some visits organized by them.

In the cantons, it was noted that steps are not currently taken to prevent occupational hazards in public services.

In RS, the Labour and Occupational Safety and Health Inspection has been an independent agency since 1 January 2006, which encompasses 12 different older inspection authorities¹⁵. Local offices were opened in six regions (Priedor, Banja Luka, Dobo, Bijeljina, Istocno Sarajevo and Trebinje)¹⁶. The Law on Inspections in RS was published in the Official Gazette of RS No 74/2010.

The system in BiH lacks a national central authority, as recommended by Articles 4 of Convention 81 and 7 of Convention 129. In the FBiH, the functions of the federal and cantonal inspectorates should be better defined to avoid overlapping mandates.

6.2.2. Scope

In both Entities, Labour Inspection covers all economic sectors. The mandate of labour inspection includes undeclared work, employment contracts, wages, working hours, holidays and leave, employment of foreign citizens, termination of employment, strikes, the rights of workers' representatives, the employment of disabled persons, and health and safety at work.

6.2.3. Human Resources, career development and other resources

The inspection services' budgets are part of the budgets of the Entities or cantons.

According to Conventions 81 (Article 10) and 129 (Article 14), the number of labour inspectors should be sufficient to secure the effective discharge of their duties. This is not the case in Bosnia and Herzegovina where according to the staff list provided the number of labour inspectors is organized as follows:

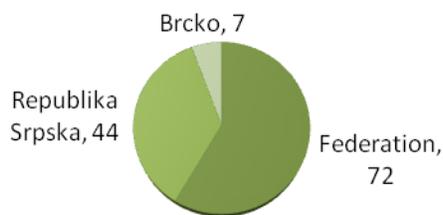


Image 3 – Number of inspectors in the country

There are a total of 123 labour inspectors for the country, 50% of whom are women.

¹⁵ Food, markets, agriculture, forestry and hunting, veterinary medicine, water, technical issues, traffic and communication, urban planning, construction and environment, health and sanitation, education and fire safety.

¹⁶ See the organizational chart in Annex III.

Labour inspectors in cantons - Federation of Bosnia and Herzegovina

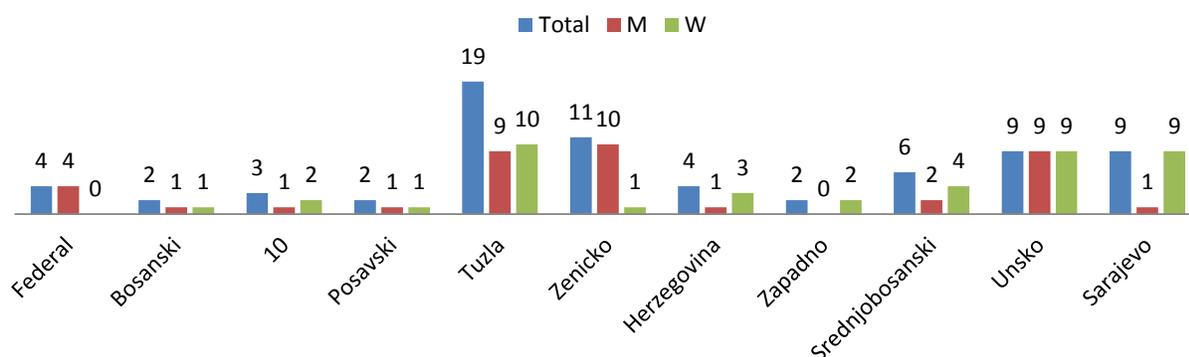


Image 4 – Number of inspectors in FBIH (data from 2011)

The shortage of human resources is particularly glaring in certain cantons, some relying on two or three inspectors to supervise all economic entities in all of the municipalities (such as Bosansko-Podrinjski, Canton 10, Posavski and Zapadno-Herzegovacki). In the cantons visited, understaffing was uniformly reported as a major concern. In Zenica-Doboj, for instance, there are 12 labour relations inspectors and four OSH inspectors. Due to leaves of absence and other causes, however, only eight labour inspectors and three OSH inspectors were working to cover all 12 municipalities. In Central Bosnia there was only one OSH inspector, covering an area of 3,189 sq. km. In the Sarajevo Canton, the strongest economic region generating more than 37% of the national GDP, there are only seven labour inspectors, with an average age of 50 years.

Labour inspectors should be selected on the basis of the appropriate qualifications for the performance of their duties, and men and women should both be eligible for appointment (Convention 81, Articles 7 and 8; Convention 129, Articles 9 and 10). The recruitment and selection procedures in the country are in accordance with these standards.

In the FBIH, the Law on Inspection (Official Gazette No. 69/05) and the Rulebook on Internal Organization of the Federal Administration for Inspection Affairs include the terms of reference and conditions required for the recruitment of inspectors in the administration of FBIH. General requirements are set at the Entity level, although the cantons can introduce additional conditions for recruitment. In Tuzla, for instance, specificities were set out by the Law on Inspections of the Tuzla Canton, published in the Official Gazette No. 8/08 and 13/11.

Labour inspectors are required to have a relevant degree in higher education and at least three years of experience, and must have passed the State examination for civil servants.

Recruitments are conducted by the Federal Agency for Civil Servants. The examination of candidates that passed the State exam for civil service occurs before a commission composed of representatives of the Agency, the labour inspectorate and trade unions. The selection procedure is organized by the Agency, which

sends its most successful applicants to the inspectorate. An appointment is carried out by the administration following this indication.

In RS, labour inspectors must also hold the appropriate qualifications and a minimum period of professional experience.

In both Entities, labour inspectors are appointed as civil servants and are protected against dismissal. In the FBiH, the law provides for the possibility of an administrative official to authorize another civil servant, whose qualifications satisfy the requirements needed for inspectors, to perform certain inspection tasks or provide assistance to the inspector, a process which should be documented by a special notice.

In the FBiH, inspection careers are horizontal: no distinction is made between junior or senior inspectors, except for a small coefficient variation. Seniority is automatic and fully grounded on one's years of service. In RS, inspectors are divided into juniors, inspectors, and seniors, according to seniority and individual results.

The wages of labour inspectors differ in FBiH and RS and diverge in the cantons. Differences can exceed 30%. Sick leaves and maternity leaves are compensated differently for federal and cantonal inspectors.

While in the field, inspectors are entitled to a daily allowance. When work is required at night or during weekends, inspectors are given compensatory time off.

In the FBiH there are no incentives for job performance. In RS, the administration can reward the best inspectors with a 13th salary.

Efforts should be made to develop a human resources strategy (especially in the FBiH), providing better incentives for inspectors and an effective job performance evaluation.

Work is also organized differently in the Entities. In RS, labour inspectors follow an integrated approach. Each inspector deals with labour relations as well as occupational safety and health. In the FBiH, cantons have specialized inspectors for safety and health at work and for labour relations.

Labour inspectors are subject to the general ethical principles applicable to civil servants and State inspectors. People who file complaints are protected, and the regime defining ethical incompatibility is legally defined.

Although a training policy was developed under the ELMO project for Bosnia and Herzegovina and some training was delivered, there is no consistent training on the relevant issues in labour inspection in most of the cantons in FBiH. Training now provided to inspectors typically does not differ from the general training provided by the Agency for Civil Service, which is not specific for labour inspectors. A training strategy is not envisaged outside the scope of this agency.

Labour inspectors, especially in the FBiH, usually lack initial as well as life-long training. In all the cantons visited, only Zenica didn't identify training as a major need.

As mentioned above, the ELMO project developed software (E-Inspector) with the capacity to fulfil the management needs for labour inspectors in both Entities. E-Inspector is an electronic tool developed to cover all phases of inspection work: planning, document standardization, risk management, registers of subjects

under the inspection mandate, objects, regulations, operations, on-field work¹⁷ and post visit work. It also provides document management, digital archives, digital signature, analyses and reporting, alerts, business activity monitoring, Internet based communications with clients, and reference to violent behaviours against inspectors¹⁸.

The full version of the software is in use in RS and the Tuzla Canton in the FBiH. It is now being adopted within the Federal Inspectorate, and other cantons will follow. Sarajevo had already implemented the system at the time of the mission, but it was reported to be inoperable on technical grounds. The contract with the software company that installed the program did not provide for assistance, and there is no IT staff in the inspectorate.

In fact, software implementation has suffered some setbacks in the FBiH because:

- it is not in use in all cantons;
- it does not allow inspectors to access data outside the scope of the canton;
- there is no technical support for the application; and
- it does not contain information on all companies and legal entities, relying only on information recorded by labour inspectors since the application was first used.

During the mission, it was stated that a database allowing for a centralized exchange of information between the FBiH and RS is under preparation.

In both Entities, labour inspectorates are well equipped with computers and printers.

One of the biggest challenges faced by labour inspectorates is the insufficient number of adequate vehicles at their disposal. In the FBiH, labour inspectors are working mostly in main towns or their surroundings, occasionally with limited modes of transportation to other localities. All the cantons visited complained of the insufficiency and poor condition of their automobile fleets. In fact, many of these vehicles create dangerous conditions for their drivers and passengers. Providing inspectorates with safe vehicles should be addressed as a priority.

¹⁷ Allows for on-line document creation, and for issuing and printing citations during the visits.

¹⁸ The system's architecture contains 12 different modules covering all parts of inspection activity. These include a module for administrative functions and state structure (administrative areas, administrative functions, government bodies, jurisdictional scope); a module for the appointment and dismissal of inspectors (decisions on appointment, decisions on dismissal, recording IDs and jurisdiction); and a module for inspection planning (arranged by target cases, and quantitatively for inspection task classifications and ad hoc cases). The software classifies companies by colour according to their risk of non-compliance (red, orange and green). There is also a module for the registration of inspection objects (object types, the monitoring history of all inspection models, the GIS location of objects); a module serving as a knowledgebase on deficiencies and inspection measures (types of deficiencies, types of measures); a module for managing inspection cases (case administration, records-drafting, issuing decisions, case history); a module on inspection statistics (service performance statistics, inspector performance statistics, and inspected objects statistics); a module on violations (on-the-spot fines, requests for proceedings, offence orders); a module for feedback (subject feedback on inspection conditions via the Internet); a module serving as a knowledgebase for learning (artificial intelligence algorithms for knowledgebase learning); a module for checklists (recording and diagnoses through checklists); a module for risk assessment (risk analysis, fuzzy logic); and a module for Incident management (Incident checklists, workflow management, risk assessment correction). For further information, consult Annex IV.

The labour inspectorates visited share their premises with other units of the general inspection service in each canton. This allows for some resource coordination and informal networking between inspectors, facilitating joint action. The quality of the premises depends on the conditions provided by the particular cantonal government. In some cases the facilities are precarious, as in the Central Bosnia Canton.

In all of the inspectorates visited, OSH inspectors do not have their own protective equipment needed to shield them from the effects of exposure to all sorts of risks. Providing inspectors with this equipment should be a high priority.

6.2.4. Functions of labour inspectors

In both the FBiH and RS, Labour Inspection involves the three main functions defined in Conventions No. 81 and No. 129:

- to provide information and technical advice to employers and workers on the effective ways of complying with labour law;
- to ensure the enforcement of labour law; and
- to bring to the attention of the competent authorities any gaps or improprieties that are not specifically covered by existing legal provisions.

6.2.5. Powers of labour inspectors

In both Entities, labour inspectors are vested with the authority to enforce labour laws. However, limits on the right of free access and to the use of sanctions were experienced in one canton (Central Bosnia). Inspectors can verify mandatory business requirements and work permits; supervise premises, installations, machinery, equipment, work processes, products and other goods; examine business books and other documents; identify people and hear witnesses; order the inspected party or an employee to make a declaration of facts relative to the inspection; and perform any other act admitted by law for the purposes of inspection.

The right of free entrance is somewhat limited by the requirement, present in both Entities, that visits be previously announced. This directly contradicts Articles 12 (1) of Convention 81 and 16 (1) of Convention 129 and should be revised.

Inspectors have the authority to order that any irregularities be corrected in due time. Inspectors may issue written notices, order the execution of binding administrative actions, make an interdiction of activities, issue fines, request that offence proceedings be initiated in a competent court, and file criminal charges.

At the cantonal level, statutory provisions and the administrative practices of labour inspection differ, although some standardization exists in most of the cantons. These differences are particularly prevalent in the cantons that did not implement the administrative reform (Herzegovina-Neretva and Central Bosnia). It was reported in the Central Bosnia Canton that inspectors, in practice, lack most inspection supervisory powers and are nearly limited to providing recommendations only. Sanctions are not possible due to the lack of statutory law providing for them.

In the Zenica-Doboj Canton, it was reported that labour inspectors are often summoned to appear before the court to represent the inspection services in cases not related to their mandate, because of their qualification as lawyers. This appears to be in contradiction with Article 3(2) of Convention 81 and Article 6(3) of Convention 129.

6.2.6. Planning, programming and reporting

A national policy on Labour Inspection does not exist. Entities define their own priorities and agendas.

In the FBiH, the constitutional jurisdictional division results in diversified visions and approaches to labour inspection in the different cantons. Since communication between the cantons is occasional and irregular, even where E-inspector is already operational, it is common for cantons not to know what is happening in other cantons.

Planning and programming are undertaken annually, both at the federal and cantonal level, and the plans and programs are periodically reviewed. In the cantons, the depth of planning (as well as reporting) undertaken depends on the management tools available, especially E-Inspector.

Cantons refer their annual work plans to the cantonal government. The same happens with reporting. The Federal Administration can influence the cantons' planning options. Priorities are generally focused on undeclared work and wages.

Operational planning involves all of the information available on a company or workplace, namely any previous records, notices, inspection reports and annual reports delivered by the workplace.

In RS, planning is more centralized, in part due to the administrative division of the Entity. Plans have annual bases and are periodically monitored and reviewed. Annual reports are submitted to the Entity's government and six-month reports are submitted to the relevant minister.

6.2.7. Inspection visits

Both Entities carry out reactive and initiative visits. The frequency of these different types of visits depends on the options and resources available. For instance, in the Tuzla Canton, 65% of the 3,530 visits in 2011 were proactive. On the other hand, in the Central Bosnia Canton, senior officials mentioned that most controls undertaken have been reactive. Practices differ among the diverse administrations of the cantons.

In the FBiH, visits can be previously announced if they are regular control visits and if there are no indications that the employer may distort the true state of affairs. Joint visits are frequent, sometimes with inspectors from other units in the same canton, owing to the small number of available resources (vehicles). During visits, labour inspectors advise employers and workers and enforce the law, mainly through administrative sanctions such as fines. In some cantons, due to the lack of statutory law, the labour inspectors are almost exclusively limited to making recommendations (as in the Central Bosnia Canton).

After gathering information on the workplace, the inspector visits the premises.

When arriving on the premises, the inspector's official ID must be shown. Then the inspection usually begins with a meeting with the employer or someone representing them, an analysis of registers and documents. The inspector then visits the worksite.

Occupational safety and health visits are performed by inspectors of specialized professions when possible. Otherwise, external institutions with adequate staff and technical equipment may be engaged.

While supervising the workplace, inspectors can conduct interviews with employees and workers' representatives.

The visit will end with the inspector writing the official minutes of the visit, which will include all data and facts established. The minutes are read in the presence of all responsible persons, and the inspector will include any comments or statements made by them before signing the document. The employer then receives one copy.

The inspector will briefly inform the employer about any shortcomings recorded and will explain, verbally or in the form of written notice, if the employer must introduce any modifications needed to eliminate these shortcomings within a given deadline. The law gives the employer the right to appeal this determination to a second instance court. After the deadline has expired, a follow-up visit is conducted to see if the recommended measures have been implemented.

In RS, visits are to be announced to the controlled entity unless this is determined to potentially endanger the success of the visit¹⁹. At the start of the visit, the inspector presents their official ID and informs the inspected entity of its rights. The employer can later report any alleged undutiful behaviour of the inspector. Whenever the employers do not accompany the visit, a copy of the report shall be left in the premises, alerting the inspected person to their right to challenge the established facts within three days.

The employer will receive and sign a copy of the report before the inspector leaves the workplace. In cases where an employer refuses to sign, the inspector will include this fact in the report. For especially complex controls, the report can be finished at the inspectorate up to three days following the visit.

Obstructing inspections is prohibited under the Laws on Inspection. In RS, for instance, a legal entity will be sanctioned with a fine from BAM 2,000 to 15,000, an entrepreneur or a responsible person in the legal entity or public body will be given a fine ranging from BAM 500 to 3,000, and a natural person will be fined between BAM 200 and 600 for failing to allow or enable inspection and/or fact finding, for failing to provide data and documentation, or for failing to act upon an inspector's decision. In the FBH, a natural person who obstructs inspection²⁰, whether or not they are the responsible person in a legal entity, will be fined between BAM 200 and 500. Legal entities are sanctioned for the offence with a fine ranging from BAM 1,000 to 10,000.

¹⁹ Article 42 of Law on Inspection (Official Gazette No. 74/2010).

²⁰ This is the case when a person substantially hinders the exercise of inspection, fails to provide the inspector with a sample for product quality control, fails to respond to the call of inspectors without justification, fails to apply an administrative measure in time and in the manner ordered by the inspector, prevents the implementation of administrative measures undertaken through another person, fails to inform the inspector of the execution of administrative measures in a timely manner, or provides the inspector with a false report or false information that is taken as evidence in the inspection procedure.

Inspectors in both Entities can inform and make recommendations on how to comply with the legislation, and they can use sanctions as mentioned below (6.2.10).

6.2.8. Preventive measures

Employers and employees generally acquire information about labour rights and obligations from labour inspectors during visits to workplaces. RS organized an awareness raising campaign entitled “Let’s Work, but Safely” after passing a new law on occupational safety and health, with intervention of the Ministry of Labour, War Veterans and Disabled Persons’ Protection, the Ministry of Health and Social Protection, and the Administration of Inspection activities. The campaign also organizes events on the world day for safety and health at work.

The FBIH lacks a regular practice of promoting awareness-raising campaigns. This could be improved upon in the future.

6.2.9. Work accidents investigation

In the FBIH, employers are obliged to submit an annual report to the labour inspectorate no later than January 15. The report covers the numbers of work-related injuries and occupational diseases, causes of injuries and death cases, type and causes of occupational diseases and implemented safety measures.

Reporting work accidents and occupational diseases is mandatory for all registered employers. Cantonal labour inspectorates have the duty to immediately report, upon receiving notice, to the federal administration all cases of death, accidents suffered by two or more employees and heavy injuries at work. These accidents are investigated by the cantonal labour inspectorate.

This investigation is based on direct observations of the place where the accidents occurred, an analysis of documents and registers, and interviews of witnesses. The inspector will analyse:

- the material conditions in which the accident occurred;
- the type of work being carried out by the victim;
- if the qualifications of the worker were appropriate, if the worker received training, if work instructions exist on how to conduct the operation and if these instructions were followed;
- characteristics of the premises, machinery, equipment and the working environment;
- work procedures;
- the safety measures that were provided;
- the use of PPE;
- the relationship between the accident and working time arrangements;
- the supervision of the work that was being performed; and
- previous accidents in the same company or reports of similar cases.

After the investigation, the labour inspector makes official minutes. These state the place and time of the investigation; the type, place, date and time of the accident; the victim's and witnesses' identification information, professions, and positions; and the name of the employer and those officials present during the investigation. The minutes include a review of statements taken during the investigation, statements of the person who suffered the accident, witnesses and other persons involved, blueprints, drawings, pictures, any other documents consulted and the conclusions.

When an accident is fatal or serious and for which there is a criminal sanction, the inspector must file a criminal offence procedure. If it established that the accident was caused by disrespect of safety measures, a notice will be issued to eliminate the relevant shortcomings or interdict the work.

6.2.10. Sanctions

Labour inspectors can impose various sanctions in both Entities, including fines, recommendations, work stoppages and court referrals for criminal offences. In addition to the Laws on Inspection, which set forth sanctions in the case of inspection obstruction, the Labour Codes and OSH Laws provide sanctions when substantive rights are breached.

Fines were reported not to be effective in the FBiH for a number of reasons. These include low fine amounts related to the legislation in force (e.g., the OSH law still refers to the old Yugoslav currency) and delays in delivering court decisions (over one year on average). All senior officers in the Sarajevo, Central Bosnia and Zenica-Doboj Cantons reported that the low effectiveness of sanctions was one of the main challenges for labour inspectorates.

In RS, inspection prioritizes recommendation and advice rather than sanctions. In both Entities, the fine amounts could be increased so as to effectively dissuade possible non-compliance.

6.2.11. Cooperation with other authorities

Inspectors can demand specialized assistance from experts, usually colleagues working in other units of the inspection service. If expertise is not available in-house, other public organizations can be called upon.

Police forces are expected to provide assistance to labour inspectors if controls are obstructed.

6.2.12. Collaboration with social partners

Collaboration with the social partners is weak in most of the cantons in the FBiH. Nevertheless, the social partners share similar concerns with the inspectorates, including the legal shortcomings resulting from the non-approval of the new OSH law and the alarming dimension of the informal economy. With very high numbers of workers not registered, they do not contribute to social security and are deprived of the protection of the labour law.

Neither employers' nor worker's organizations are involved on a regular basis in the activities of labour inspection.

Effective collaboration between labour inspection and the trade unions was reported in the Zenica-Doboj Canton, especially in the construction and textile sectors. This generally relates to trade unions' ability to identify cases of noncompliance. Partnerships and direct engagement in the planning and monitoring of inspection activities are weak, especially when it comes to employers' organizations. In the Central Bosnia Canton, collaboration with the social partners was reported to occur mainly during and after strikes.

Collaboration with trade unions and employers' organizations should be strengthened at the federal and cantonal levels, promoting a regular platform for discussion and decision-making on policies and strategic options.

VII. Findings

The main conclusions from the mission are as follows:

1. The diverse legal frameworks in force in the country lead to differences in inspection procedures. A particular limitation in the FBIH concerns the lack of approval of the new OSH law. These legal inconsistencies create an environment where employers and workers are given different rights and obligations depending on their geographical location.
2. A national system involving a coherent and coordinated set of institutional actors providing labour inspection services does not exist. On the contrary, three separate systems are defined by the different Entities and the BD with sparse links.
3. A national policy and programme for labour inspection is not envisaged. Instead, the Entities have their own policies and agendas. In the FBIH, most decisions are made at the cantonal level, reducing space for inter-Entity harmonization. Companies can face different approaches from labour inspectors who are supervising identical issues, depending on the canton.
4. Neither strategic options nor results are discussed with the social partners. Collaboration is generally feeble.
5. Labour inspectorates are understaffed and gravely lack resources, especially adequate vehicles. Many of the vehicles in use create hazardous conditions to inspectors.
6. Careers with the labour inspectorate are not attractive to the most qualified people and incentives are not enough for inspectors to improve individual performance especially in the FBIH. Incentives for inspectors differ from one entity to another.
7. There is no national strategy for human resources development and no training strategy. Labour inspectors lack comprehensive training on modern methods of inspection. Specialized training is missing for sectors such as agriculture.
8. Though the E-Inspector tool is an excellent use of technology for labour inspection, some cantons have difficulty using it (or do not use it) because of the lack of maintenance included. The different cantonal inspectorates should also have access to some data at the federal and national levels, especially relating to companies and legal entities. Protocols should be established with Chambers of Commerce or other institutions to gather comprehensive and complete information on existing companies, rather than relying exclusively on the data added to the system by the inspectorates.
9. The lack of personal protective equipment for labour inspectors dealing with occupational safety and health projects a bad image to companies and exposes labour inspectors to harmful environments without adequate protection.
10. Undeclared work has been cited as a major problem in Bosnia and Herzegovina by all of the relevant constituents. As in other fields, the responses of the Entities differ, and some benchmarking would be useful.

The specific tripartite committee developed in RS to fight undeclared work in construction could be adapted to the FBiH, at least at the cantonal level.

11. Sanctions are not dissuasive. In the FBiH, pre-war legislation is still in force, meaning that the fines imposed are increasingly meagre by contemporary standards. Enforcement is not effective, owing to the non-deterrent effect of sanctions and to lengthy judicial procedures.

12. The statutory powers vested in labour inspectors differ between the Entities and within the cantons. A revision of these powers should be considered in lieu of international labour standards. Some cantons are in urgent need of new statutory regulations providing inspectors with the effective right of free entrance and the prerogatives for action set by Conventions 81 and 129.

13. There is inadequate communication between the Entities and between the cantons. Databases do not allow parties to share information that exceeds the scope of the geographical division of their Entity or canton. This creates an opportunity for non-compliant employers to reproduce bad practices in different areas of the country, unbeknownst to the different inspectorates. It is also challenging for labour inspectorates to fully understand how companies operate in the country when they are only provided with a fraction of the information available. If modern labour inspectorates aim to change organizational culture to achieve long-lasting results, the current framework in place in BiH will make this quite difficult.

14. In the FBiH, the communication between the cantons and the federal inspectorate should be improved. Unexpected visits made by the federal inspectorate in territories covered by cantons lead to suspicion and do not improve unity within the system.

VIII. Recommendations

The main recommendations for the country in the area of labour inspection include enhancing the coordination and coherence of the system, strengthening social dialogue, building capacities and assisting the labour inspectorates to address those issues identified as national priorities by constituents, such as undeclared work.

1. *Legislation.* Harmonization of the labour laws could be considered, despite the constitutional mandate of Entities and cantons. This particularly relates to the new OSH laws and sanctions.

2. *System of labour inspection.* A coordination/supervision mechanism could be established nationally, respecting the Constitutions of the Entities and cantons in what regards their exclusive jurisdiction. A representative tripartite committee could be established, bringing together the heads of labour inspectorates and the social partners.

3. *Policies, programmes and practices of labour inspection.* Identifying priorities and standardizing practices should be required to provide safer environments for businesses.

4. *Social dialogue.* Collaboration with the social partners should be intensified, and joint discussion focusing on the exact role of labour inspection should be promoted.

5. *Human resources.* Long-term human resource strategies should be envisaged, with the aim of reinforcing the inspectorate staff. Recruitment, mobility and incentives to attract and retain workers should be considered. Training strategies should be designed and implemented, covering the specific needs of labour inspectorates.

6. *Other resources.* A policy for renewing the automobile fleet, or for providing different options to ensure the safe transportation of labour inspectors to work places, is fundamental to extending labour inspection to all geographical areas in the country on a regular basis. Personal protective equipment for labour inspectors should also be acquired and periodically replaced. The needs of inspectorates to administer and maintain E-Inspector should be assessed, and continual assistance should be provided.

7. *Undeclared work.* A strategy for the labour inspectorates on undeclared work should be designed and implemented. The tripartite structure created in RS could be adapted to the cantons in the FBiH.

8. *Sanctions.* The exact reasons for the alleged ineffectiveness of sanctions should be identified, and solutions should be considered to strengthen labour law compliance.

9. *Powers of inspectors.* The statutory powers of the labour inspectors should be benchmarked between both Entities and harmonized. The pre-announcement practice of visits should be revised so as to be in line with Conventions 81 and 129.

10. *Networking.* Communication between the labour inspectorates in the Entities and between the Federal Administration and the cantonal inspectorates should be improved. Cooperation with other authorities should

be enhanced to allow better access to data or to promote joint efforts, creating synergies and enhancing results.

The action plan presented in Annex III proposes specific outputs for the biennium 2012/2013 and recommended actions for the future.

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ANNEX I: List of ratified Conventions and in force

C002 - Unemployment Convention, 1919 (No. 2)

C008 - Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

C009 - Placing of Seamen Convention, 1920 (No. 9)

C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

C012 - Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)

C013 - White Lead (Painting) Convention, 1921 (No. 13)

C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)

C016 - Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)

C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

C018 - Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)

C019 - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

C022 - Seamen's Articles of Agreement Convention, 1926 (No. 22)

C023 - Repatriation of Seamen Convention, 1926 (No. 23)

C024 - Sickness Insurance (Industry) Convention, 1927 (No. 24)

C025 - Sickness Insurance (Agriculture) Convention, 1927 (No. 25)

C027 - Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)

C029 - Forced Labour Convention, 1930 (No. 29)

C032 - Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)

C045 - Underground Work (Women) Convention, 1935 (No. 45)

C053 - Officers' Competency Certificates Convention, 1936 (No. 53)

C056 - Sickness Insurance (Sea) Convention, 1936 (No. 56)

C069 - Certification of Ships' Cooks Convention, 1946 (No. 69)

C073 - Medical Examination (Seafarers) Convention, 1946 (No. 73)

C074 - Certification of Able Seamen Convention, 1946 (No. 74)

C080 - Final Articles Revision Convention, 1946 (No. 80)

C081 - Labour Inspection Convention, 1947 (No. 81)

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

C088 - Employment Service Convention, 1948 (No. 88)

C089 - Night Work (Women) Convention (Revised), 1948 (No. 89)

C090 - Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)

C092 - Accommodation of Crews Convention (Revised), 1949 (No. 92)

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

C097 - Migration for Employment Convention (Revised), 1949 (No. 97) - *Has excluded the provisions of Annex III*

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

C100 - Equal Remuneration Convention, 1951 (No. 100)

C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102) - *Has accepted Parts II to VI, VIII and X. Part VI is no longer applicable as a result of the ratification of Convention No. 121.*

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

C106 - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) - *The Government has declared that*

the Convention also applies to persons employed in the establishments specified in Article 3, paragraph 1.

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

C116 - Final Articles Revision Convention, 1961 (No. 116)

C119 - Guarding of Machinery Convention, 1963 (No. 119)

C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

C122 - Employment Policy Convention, 1964 (No. 122)

C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129)

C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

C132 - Holidays with Pay Convention (Revised), 1970 (No. 132) - *Length of holiday specified: 18 working days. Has accepted the provisions of Article 15, paragraph 1 (a) and (b).*

C135 - Workers' Representatives Convention, 1971 (No. 135)

C136 - Benzene Convention, 1971 (No. 136)

C138 - Minimum Age Convention, 1973 (No. 138) - *Minimum age specified: 15 years*

C139 - Occupational Cancer Convention, 1974 (No. 139)

C140 – Paid Educational Leave Convention, 1974 (No. 140)

C142 - Human Resources Development Convention, 1975 (No. 142)

C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

C148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

C155 - Occupational Safety and Health Convention, 1981 (No. 155)

C156 - Workers with Family Responsibilities Convention, 1981 (No. 156)

C158 - Termination of Employment Convention, 1982 (No. 158)

C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

C161 - Occupational Health Services Convention, 1985 (No. 161)

C162 - Asbestos Convention, 1986 (No. 162)

C174 - Prevention of Major Industrial Accidents Convention, 1993 (No. 174)

C175 - Part-Time Work Convention, 1994 (No. 175)

C176 - Safety and Health in Mines Convention, 1995 (No. 176)

C177 - Home Work Convention, 1996 (No. 177)

C181 - Private Employment Agencies Convention, 1997 (No. 181)

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

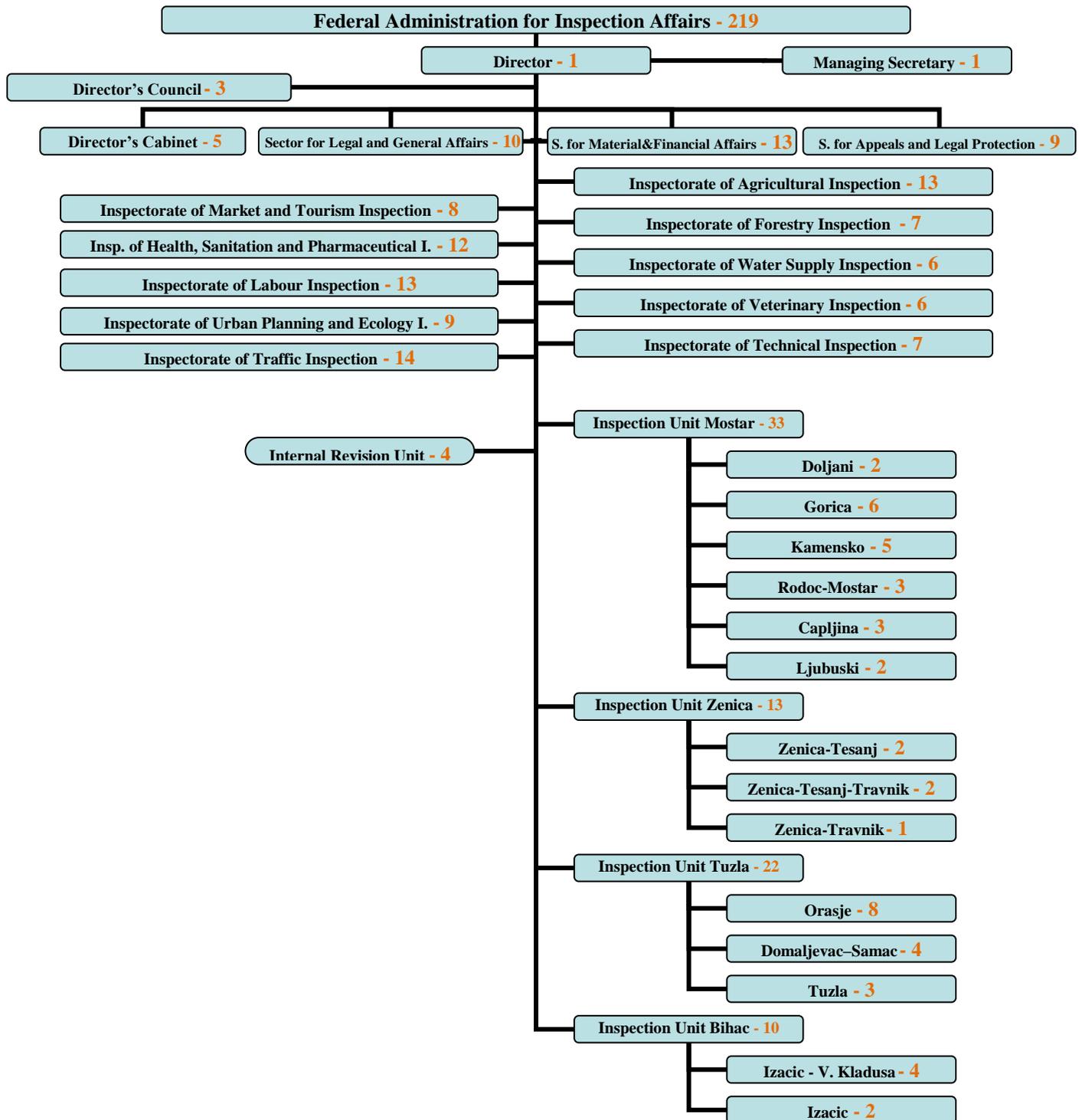
C183 - Maternity Protection Convention, 2000 (No. 183) - *Period of maternity leave: 28 days before the date of delivery and for a total period of one year (for twins, and subsequent children, a total period of 18 months) is guaranteed.*

C184 - Safety and Health in Agriculture Convention, 2001 (No. 184)

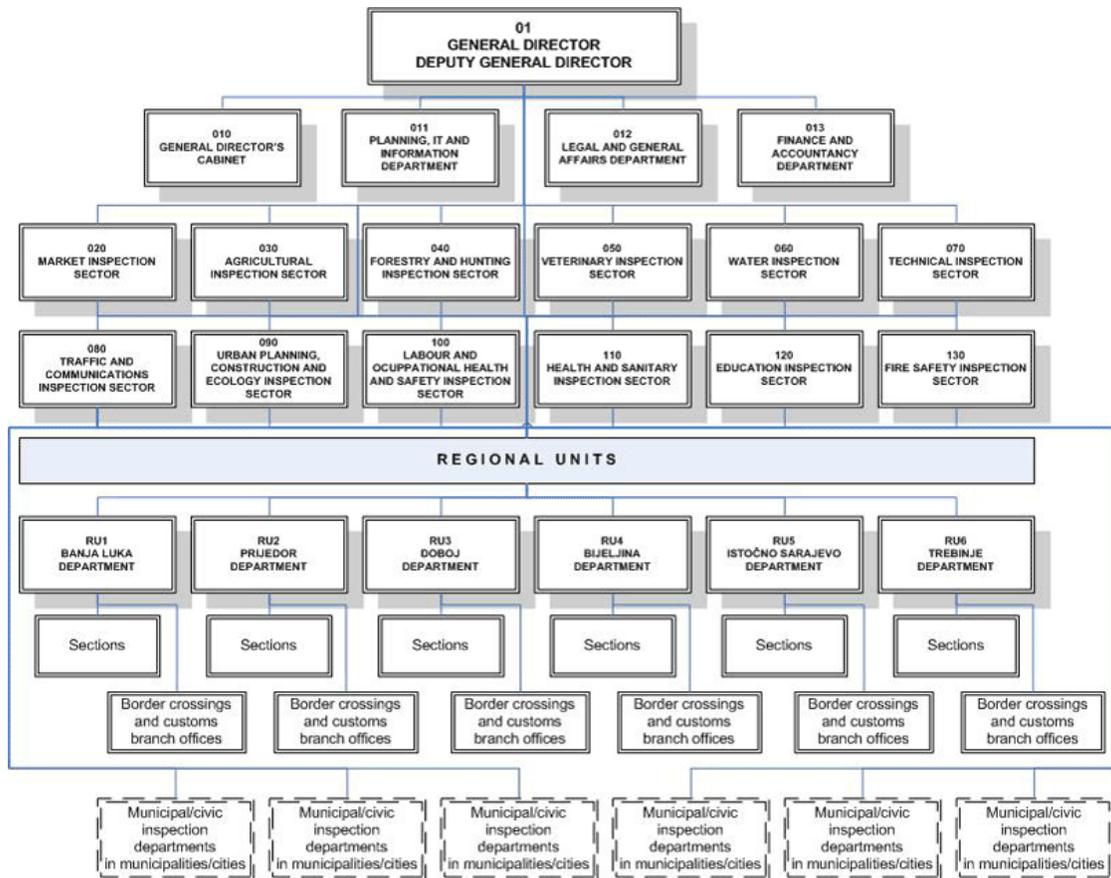
C185 - Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

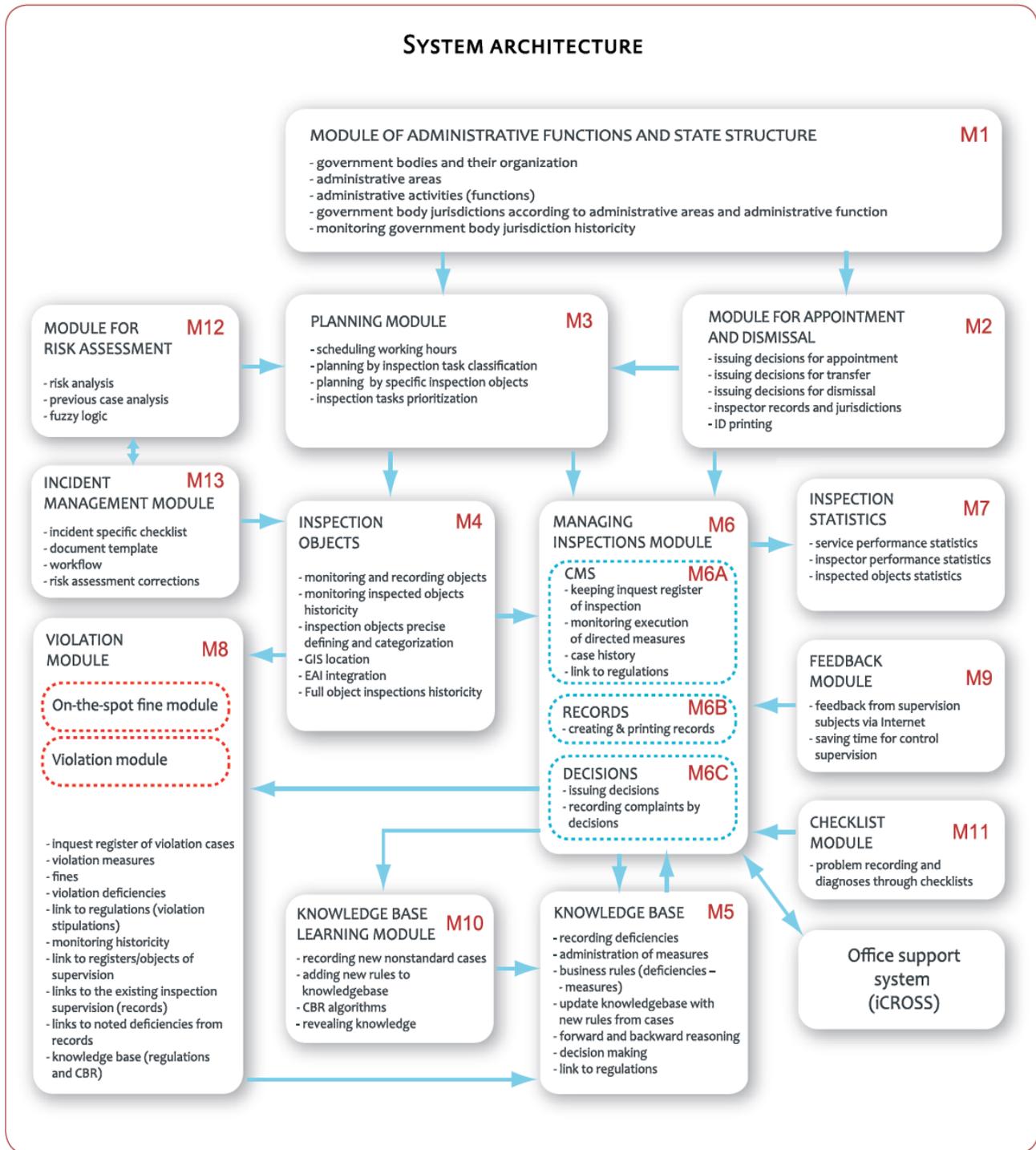
ANNEX II: Organizational chart of the Federal Administration for Inspection Issues



ANNEX III: Organizational chart of the Republic Administration for Inspection Activities in RS



ANNEX IV: E-Inspector system architecture



Source: http://www.infodom.hr/UserDocsImages/eINSPEKTOR_ProductSheet_042009_eng.pdf.

ANNEX V: Draft work plan

1. DWCP 2012/2015

The DWCP for Bosnia and Herzegovina for 2012/2015 contains one outcome on labour inspection aiming to build capacity for labour inspectorates. This calls for providing technical assistance to better inform inspectors and assist them in supervising working conditions, particularly regarding occupational health and safety and undeclared work.

The outcome also calls for technical assistance on developing gender sensitive policy guidelines, training for labour inspectors, facilitating tools and sharing best practices through networking with organizations from the EU and Eastern Europe.

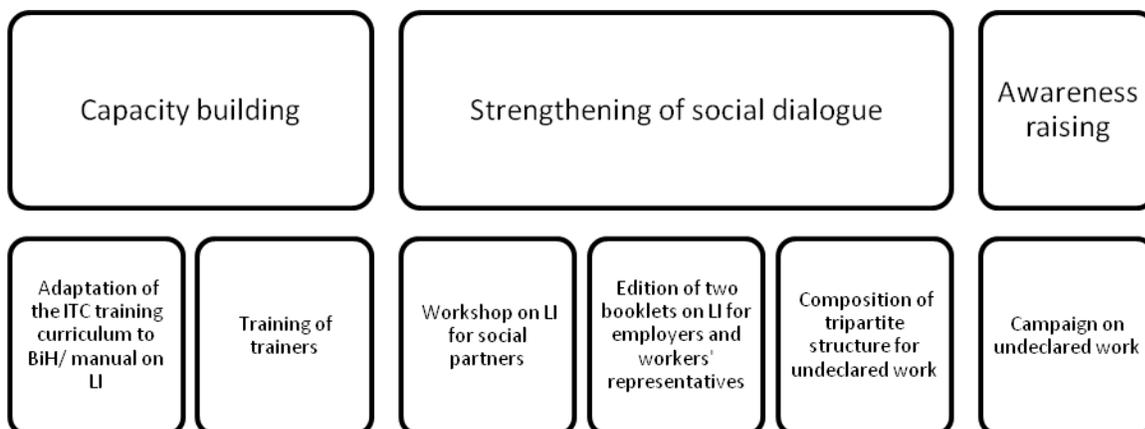
Advocacy for the creation of a tripartite body to examine the problems of and potential solutions for undeclared work is also envisaged.

The DWCP outcome indicators are as follows:

- Labour inspection policy guidelines for undeclared work and occupational health and safety are to be revised or drafted in consultation with the social partners and then implemented.
- A tripartite body to combat undeclared work is to be set up.
- Both management support and facilitating tools are to be developed to improve knowledge and enforcement of legislation on occupational health and safety at work and undeclared work.
- Labour inspectors are to be trained in occupational health and safety, labour law and modern inspection methods.
- Bilateral cooperation protocols are to be signed with sister organizations from Eastern Europe and the EU.

The action plan for Bosnia and Herzegovina reflects these inputs and builds upon the main findings of the needs assessment conducted for the country, with a special focus placed on the FBiH.

For the years 2012/2013, the ILO has allocated RBSA funds (45,000 USD) for this outcome. Considering the possible activities to develop, if other financial resources are not found, the work plan for Bosnia and Herzegovina for the period under consideration is as follows:



The implementation of other outputs considered under the DWCP will depend on opportunities and available resources. These are listed at the end of this report.

2. Outputs for the period 2012/2013

2.1. Training of trainers on modern and effective labour inspection systems

This training aims to provide the labour inspectorates with internal expertise on how to organize and conduct trainings. It also aims to expose participants to best practices on labour inspection management and action. The training will primarily use the modular manual created by the ITC/LABADMIN in 2010, which assists countries on improving their curricula for labour inspectors. The curriculum is designed around a series of modules covering a wide range of labour inspection issues. These include labour inspection principles, policies and strategies, as well as practical tools and methodologies for inspectors. Twelve different modules of the course will be used. The training will be conducted over three days for labour inspectors and labour inspection managers from all over the country.

The modules to be used are as follows:

1.General Framework; Labour Administration and its key functions
2.Introduction to the Labour Inspection
3.Policy and procedures
4.Strategies of compliance
5.Cooperation and partnership
6.Inspection of working conditions
7.Inspection of employment relationships
8.Inspection of occupational safety and health
9.Vulnerable groups

10.Labour Inspection Visit
11.Tools of the labour inspectorate
12.Institutional Capacity Development

The training curriculum, translated into one of the official languages of Bosnia and Herzegovina, will be distributed to all labour inspectors, serving as a reference for good practices and other work experiences.

2.2. Tripartite workshop on the role of labour inspection for social partners

A tripartite workshop will be organized for employers' and worker's representatives and will provide the tripartite constituents with their first opportunity to jointly discuss labour inspection. The model shall be interactive, and the ILO shall serve as the facilitator. The workshop will be organized over one and a half days. The guidelines produced by LABADMIN's "Labour Inspection: What it is, what it does" will be translated into one of the official languages of Bosnia and Herzegovina and used as the workshop's main reference material. The same booklets will be distributed to social partners in both Entities and in the Brcko District.

2.3. Campaign on undeclared work

The campaign on undeclared work will provide an opportunity to join the Government, labour inspectorates and social partners around a topic of common concern. The campaign will build upon past experience and will use available materials adapted to the national context.

The campaign will be piloted during the 2012/2013 period in selected regions, which will be decided on by the constituents.

The specific outputs to deliver include:

- a poster on undeclared work;
- a leaflet on undeclared work (explaining the virtues of registered employment and one's obligations under fiscal and social security regulations);
- a website or other web presence on undeclared work; and
- a tripartite workshop on the subject.

2.4. Composition of tripartite committee for undeclared work

The tripartite committee on undeclared work will build from the experience already developed from a similar campaign in Republika Srpska. It will aim to combat undeclared work in the regions where the campaign will be developed. One or two cantons in the FBiH will be selected.

CP Outcome 3.3: Strengthen the effectiveness of the LI system to better promote decent working conditions through information, advice and law enforcement- - BiH153				Milestones			
Indicator 1	Means of Verification	Baseline (date)	End Target (date)	2012	2013	Year 3	Year 4
Labour inspection policy guidelines for undeclared work and occupational health and safety are revised or drafted, in consultation with social partners	<ul style="list-style-type: none"> • Written guidelines • Annual report 	No guidelines on undeclared work	Policy guidelines are drafted, set and ready for use (2012)	Technical assistance for developing policy guidelines at the entity level	Workshop on undeclared work is organized		
A tripartite body for the fight against undeclared work is established	<ul style="list-style-type: none"> • Constitutional Acts • Minutes of tripartite body meetings 	Currently no tripartite body deals with undeclared work in all sectors (exception: RS, board on construction)	Establishment of a tripartite body to fight undeclared work (2013)	Campaign for awareness-raising on undeclared work (poster, leaflet and web presence)	Establishment of the tripartite body on undeclared work		
Both management support and facilitating tools are developed for better information and enforcement of legislation on occupational health and safety at work and undeclared work	<ul style="list-style-type: none"> • Available tools (manuals, toolkits, database) 	No updated database exists at the LI	Manual on inspection methods, updated database, training plan, checklists developed (2013)	Manual, training plan and checklist developed, training for labour inspectors – technical assistance	Database developed – technical assistance	Both management support and facilitating tools are developed for better information and	Available tools (manuals, toolkits, database)

CP Outcome 3.3: Strengthen the effectiveness of the LI system to better promote decent working conditions through information, advice and law enforcement - - BiH153				Milestones			
Indicator 1	Means of Verification	Baseline (date)	End Target (date)	2012	2013	Year 3	Year 4
						enforcement of legislation on occupational health and safety at work and undeclared work	
Labour inspectors are trained on occupational health and safety, labour law and modern inspection methods	Participation sheets	No training on OSH organised for Labour Inspectors in the Federation. (2012 March)	20 labour inspectors from the Federation trained by end of 2012.	ToT on effective labour inspection systems organized.			
Bilateral cooperation protocols are signed with sister organizations from the EU and Eastern Europe	Bilateral or multilateral meetings, signed agreements	No experience	Minimum 2 cooperation protocols are signed by end 2013	Participation in one regional workshop/ conference	Facilitate cooperation with sister organizations		

Programme for the training of trainers

Time	Day 1	Day 2	Day 3
09.00/10.30	Opening Labour Administration and Labour Inspection (Modules 1 and 2)	Inspection of occupational safety and health (Module 8)	Inspection visit (Module 10)
10.30/11.00	Coffee break	Coffee break	Coffee break
11.00/12.30	Policy, procedures and strategies of compliance (Modules 3 and 4)	Basic risk assessment and work accidents investigation Exercise	Inspection visit (cont.)
12.30/13.30	Lunch	Lunch	Lunch
13.30/15.00	Inspection of working conditions Inspection of the Employment Relationship (Module 6 and 7)	Tools of the Labour Inspectorate (Module 11)	Presentation of group works
15.00/15.30	Coffee break	Coffee break	Coffee break
15.30/16.30	Vulnerable groups (Module 9)	Training skills (group work)	Presentation of group works
16.30/18.00	Networking, cooperation and partnership Module 5)	Training skills (group work)	Final exercise Conclusion Distribution of certificates

Dates:

Translation of the ITC/LABADMIN training curriculum	August 2012
Editing and printing	September 2012
Training	September 2012

Workshop – DRAFT Programme for Bosnia and Herzegovina

Organization of workshop	September/October 2012
Translation of booklets	September 2012
Editing/printing of booklets	October 2012
Workshop	November 2012

CAMPAIGN ON UNDECLARED WORK

Constitution of task force	September/October 2012
Definition of guidelines for the campaign	October/December 2012
Editing of poster, leaflets and web presence	October/December 2012
Official launch of campaign (workshop)	January 2013
Campaign implementation	2013
Assessment	2013

Composition of tripartite structure for undeclared work

Selection of region(s)	December 2012
Constitution of task force	January/March 2013
Benchmarking with the Republic Srpska experience (study visit)	April 2013
Setting up composition and rules of functioning	May/July 2013
First meeting of the committee	September 2013

3. Other recommendations

Based on the assessed needs, the following list identifies possible future action in the country, depending on the resources available.

1. Comparative study on the labour legislation frameworks of the Entities, with a view to recommending the harmonization of minimum standards applicable to workers.
2. Comparative study on the different statutory laws and regulations on labour inspection at the Entity and cantonal levels with a view to recommending harmonization with Conventions 81 and 129, namely in regards to statutory powers.
3. Comparative study on strategies, practices, methods and tools of labour inspection with a view to encouraging the exchange of best practices and the eventual standardization within BiH, keeping in mind the autonomous jurisdiction of the Entities and cantons.
4. Comparative study on the sanctions available in the Entities and cantons and their respective procedures, with a view to identifying weaknesses and recommending best practices (both national and international).
5. Instalment of a tripartite central authority to define a national labour inspection policy and programme and to supervise and assess implementation, keeping in mind the autonomous jurisdiction of the Entities and cantons.
6. Enhancement of social dialogue and cooperation between the social partners and labour inspectorates by building formal and informal networks, sharing experiences and engaging in joint programmes.
7. Development of a human resources strategy, including recruitment and career policies and training strategies and programmes, to harmonize the policies of the Entities and cantonal regimes, keeping in mind the autonomous jurisdiction of the Entities and cantons.
8. Development of a resource allocation plan, helping to ensure adequate automobile fleets and personal protective equipment for the inspectorates at the Entity and cantonal levels.
9. Identification of gaps in the implementation of E-Inspector to create and implement a plan to address these gaps, including continuous maintenance and technical support.
10. Building upon the pilot experiences of the undeclared work campaign in RS, and developing new campaigns on labour relations or occupational safety and health.
11. Identification of opportunities to expose the labour inspectorates to the best practices of labour inspection or related issues, namely through participating in trainings organized by the ITC, and organizing sub-regional, regional or international workshops, seminars, conferences or study visits.