



International  
Labour  
Organization



# ► Overview of the current functioning of social security inspections and recommendations

Strengthening compliance with social security  
in the Lao People's Democratic Republic

June 2023



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# Executive summary

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This report provides recommendations to the Lao Social Security Organization (LSSO) for the strengthening of its inspection functions so as to foster better compliance among employers with legal obligations relating to LSSO registration and social security contribution payment requirements. These recommendations are structured around two main axes: (i) harmonization of the legislative and regulatory framework relating to labour and social security inspections; and (ii) modernization of the administration of social security inspections.

## Building a stronger unique or harmonized legislative and regulatory framework

Most countries adopt a single law and respective regulations covering both social security and labour inspection, especially when both inspection systems are under the same ministry or department. The Lao People's Democratic Republic, however, has different legal instruments for labour inspection and social security inspection, and the differences between these instruments can lead to possible challenges in relation to social security inspection powers and functions. The on-going revision of the Social Security Law presents an opportunity to align the legislative and regulatory provisions around labour and social security inspection as well as an opportunity to align the whole with international labour standards. In this context, the following recommendations are made:

- Assign to a sole authority the mandate to perform social security inspections and to impose sanctions in cases of non-compliance.
- Elaborate the powers and duties of social security inspectors in the Social Security Law, as is done for labour inspectors in the Labour Law.
- Make inspection visits unannounced, and use announced visits for exceptional cases only.
- There should be no requirements for employer consent of an inspection visit, and no requirement to have an employer sign the inspection report.
- Add a clear mandate for social security inspectors to impose sanctions in cases of non-compliance.
- Simplify and shorten the process on enforcement, including:
  - i. introduce a faster inspection procedure, possibly with education steps conducted during a campaign or performed by someone other than the inspectors;
  - ii. consider employers receiving only one single warning, with even this possibly applying only to new labour units or small- and medium-sized enterprises; and
  - iii. establish fine procedures and fine values, considering the seriousness of the offense, and have the fine totals increase in the event of recidivism. In addition, immediate fines should be allowed in certain special cases, such as obstruction.



## **Strengthening and modernizing the administration of social security inspections**

All of the recommendations above contribute to strengthening the administration of social security inspections, but to also modernize the administration would require the following:

- ▶ Development of standard operating procedures describing the activities necessary to complete tasks, and related forms and responsibilities, in accordance with the inspection guidelines.
- ▶ Adoption of operational tools and information systems suited to the strategies, objectives and operational procedures of the social security inspectorate.
- ▶ Intensification of cooperation and development of partnerships with the labour inspectorate based on exchanges of information, coordination of activities and implementation of joint programmes and visits in pursuit of commonly defined objectives, as well as the sharing of systems and information with other governmental institutions, particularly the Ministry of Commerce and the tax authorities so as to positively influence compliance with social security requirements.
- ▶ Adoption of a code of ethics for social security inspectors and a complaints mechanism, possibly in line with the common principles of the Code of Integrity developed by the International Association of Labour Inspectors (IALI) and reflecting the Lao People's Democratic Republic's local conditions.
- ▶ Design and operationalization of a training programme for field inspectors and for top and middle managers of the LSSO at the central, regional and local levels, and focused on operational practices and covering the developed Inspection Guidelines, international instruments and good practices, as part of strategic compliance planning.

# Introduction and background

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This report represents the output from an assignment aimed at providing technical support to the Lao Social Security Organization (LSSO) to strengthen its social security inspection function and to ensure better compliance with social security registration and contribution payment requirements among labour units in the Lao People's Democratic Republic. The assignment involved two important tasks:

1. Develop a short road map for compliance with social security requirements, allying preventive and enforcement measures. The road map will be developed through working sessions with the LSSO and relevant stakeholders.
2. Provide recommendations to strengthen inspection functions as well as compliance with LSSO registration and contribution payment requirements.

To this end, a two-week mission to the Lao People's Democratic Republic was conducted in January 2023, during which a stakeholder workshop and several meetings with the LSSO were held. Following this mission, a draft of the Social Security Guidelines was submitted for LSSO perusal, taking into consideration ILO Conventions and guidelines and the non-official English translations of three core instruments used as reference:

- Social Security Law No. 54 (amended version) of 27 June 2018;
- Ministry of Labour and Social Welfare (MoLSW) Ministerial Decision No. 0897 on the Lao Social Security Organization's Inspection, 18 March 2022; and
- MoLSW Ministerial Decision No. 4139 on Social Security Inspection, 2 November 2021.

As well as similar instruments concerning the labour inspection system, namely:

1. Labour Law No. 43 (amended version) of 24 December 2013; and
2. MoLSW Ministerial Decision No. 4227 on the Organization and Functions of Labour Inspectors, 5 December 2016

Several recommendations were raised to strengthen social security inspection and promote compliance. These suggestions were shared with the LSSO during an online meeting on 20 April 2023 and discussed in depth during a second mission, conducted from 27 May to 4 June 2023, during which time it was possible to discuss these suggestions in great detail.

In order to facilitate the discussion, the suggestions were merged into two groupings:

1. Building a unique or harmonized legislative and regulatory framework; and
2. Suggestions to strengthen and modernize the administration.

In the first grouping comprises several suggestions regarding the review and harmonization of the Social Security Law and regulations concerning social security inspections, taking as a reference the country's labour inspection instruments, as well as international standards, such as ILO Conventions and Recommendations, in particular the ILO Labour Inspection Convention, 1947 (No. 81).

The second grouping comprises other possible administrative measures to strengthen and modernize social security inspection in the Lao People's Democratic Republic, such as cooperation and collaboration with other institutions and the development of information and communication systems.

This report presents a consolidated overview of the current functioning of social security inspection, considering each specific issue and offering some suggestions for improvement, while taking into account the two groupings above in order to provide a basis for future improvement. For each point, tentative steps for a future road map are included as well.

# 1. Building a unique or harmonized legislative and regulatory framework

The typical approach adopted in several countries is to have a single law (supported by subordinate regulations) covering both social security and labour inspection, especially when both inspection systems are under the same ministry or department. In the Lao People's Democratic Republic, labour inspection and social security inspection both fall under the purview of the MoSLW, but in a break from the norm, they are each covered by different laws:

- labour inspection is governed by the Labour law (Section XV, as well as other scattered articles) and Ministerial Decision No. 4277; and
- social security inspection is governed by the Social Security Law (Chapter 2 of Part X and the whole Part XI) and Ministerial Decisions Nos 4139 and 0897.

The decision to adopt a different legislative framework for each type of inspection does not necessarily represent a challenge to having an effective and efficient system, but an analysis of the two laws and their respective subordinate regulations shows that the approaches adopted for the two inspection systems are different. Some of these differences can lead to possible challenges to social security inspection powers and function in the future. In addition, it appears that social security inspection could be improved if it utilized the same legislative approach as that which is used for labour inspection. Table 1 below provides an overview of the legal bases behind various aspects to both labour inspection and social security inspection. Some of these aspects and the corresponding legislation are discussed in this report, as well as suggestions for possible improvement.

► **Table 1. Overview of the legal bases for labour and social security inspections**

Aspect of inspection system	Labour inspection	Social security inspection
<b>Mandate to inspect</b>	Labour Law, article 171	Social Security Law, article 110; Ministerial Decision No. 0897, article 9; Ministerial Decision No. 4139, article 4
<b>Content of inspection</b>	Labour Law, article 172 (includes social security)	Social Security Law, Art. 111
<b>Forms of inspection and reports</b>	Labour Law, article 173; Ministerial Decision No. 4277, article 3 (includes follow-up inspections)	Social Security Law, articles 112–113; Ministerial Decision No. 4139, articles 5–6 (no mention of follow-up inspections)
<b>Personal requirements to be an inspector</b>	Labour Law, article 174; Ministerial Decision No. 4277, articles 5–6	Ministerial Decision No. 4139, articles 19–20

Aspect of inspection system	Labour inspection	Social security inspection
<b>Prohibitions for inspectors</b>	Labour Law, article 174; Ministerial Decision No. 4277, article 13	Social Security Law, article 118; Ministerial Decision No. 4139, article 21
<b>Powers and duties of inspectors</b>	Labour Law, article 175; Ministerial Decision No. 4277, articles 7–8	Ministerial Decision No. 4139, articles 17–18 (no sanctioning power mentioned)
<b>Measures against violators</b>	Labour Law, article 179; Ministerial Decision No. 4277, article 9	Social Security Law, articles 116, 117 and 119; Ministerial Decision No. 4139, articles 24–25
<b>Fines</b>	Labour Law, article 179; Ministerial Decision No. 4277, article 10 (fine related to social security registration)	Social Security Law, article 119; Ministerial Decision No. 4139, article 26 (after 270 days and no fines set for obstruction)

## 1.1. Mandate to conduct an inspection and the content of inspections

Article 171 of the Labour Law assigns the internal inspection agency,<sup>1</sup> and as per Ministerial Decision No. 4227 (article 2), this agency has the mandate to send inspectors to conduct labour inspections in labour units/workplaces to ensure the implementation of the Law and labour regulations. Similarly, article 110 of the Social Security Law assigns the Social Security Management Organization,<sup>2</sup> which has the mandate to perform inspections considering three inspection targets, as defined in article 4 of the Ministerial Decision No. 4139: (i) formal enterprise social security scheme inspection; (ii) voluntary insured member social security scheme inspection; and (iii) civil servant social security scheme inspection (table 2).

Article 172 of the Labour Law delineates the content of the labour inspection, and these contents includes social security attributes sitting within the scope of labour inspections. Ministerial Decision No. 4277 on labour inspection also prescribing penalties for employers who have not registered their workers to social security (article 10). A different approach is taken for social security inspections, with article 111 of the Social Security Law having a general mandate covering all inspection targets and including the implementation of the Law on Social Security, as well as the performance of civil servants and social security officers, and the development and implementation plans on social security, without discriminating whether these things are all responsibilities of the social security inspectors or other officials from the external inspection agencies (table 2).

Certainly, an important role of labour inspection is to mobilize and encourage employers to comply with the Social Security Law, nevertheless, it is recommended to assign to a sole authority the mandate to perform the social security inspections and to impose sanctions in the event of non-compliance, without hindering the cooperation among inspectorates in this regard. Having two authorities responsible for overseeing the same attribute can lead to possible challenges in the future regarding the activities performed by social security inspectors when verifying the registration and contribution payments of labour units.

<sup>1</sup> The agency itself is prescribed in article 155 of the Labour Law.

<sup>2</sup> The organization itself is prescribed in article 105 of the Social Security Law

The suggestion in this respect is to perform a revision of both laws and their subordinate regulations, giving to social security inspectors the mandate to verify social security attributes and impose sanctions for non-compliance in this regard. When revising the law, it would be advisable to clearly specify, either within the law itself or through specific regulations, which agency or officers are responsible for implementing Article 110 of the Social Security Law concerning the targets outlined in Article 4 of Ministerial Decision 4139, if no single authority is designated. Additionally, inspections related to Article 111, particularly those involving the performance of civil servants, should not be conducted by the same civil servants under review.

► **Table 2. Mandate for and content of labour inspections and social security inspections: Comparison of the relevant legislation**

Mandate	
Labour inspection	Social security inspection
<p><b>Labour Law, article 171.</b> The labour inspection affairs agencies</p> <p>The labour inspection affairs agencies comprise:</p> <ol style="list-style-type: none"> <li>1. The Internal Inspection Agency, which is the same agency as the Labour Administration Agency as determined in article 155 of this law.</li> <li>2. The External Inspection Agency comprises: <ul style="list-style-type: none"> <li>• The National Assembly, as determined in the Law on the Monitoring of the National Assembly;</li> <li>• The Government Inspection Authority and Anti-Corruption Organization as determined in the law;</li> <li>• The State Audit Organization as determined in the law on state auditing;</li> <li>• The Lao Front for National Construction, mass organizations, the people and the media.</li> </ul> </li> <li>3. Labour inspection officers</li> </ol> <p>External inspection has the objective of inspecting the implementation of duties of the Labour Administration Agency to ensure its strength, transparency, fairness and efficiency.</p> <p><b>Ministerial Decision No. 4227, article 2.</b> Definitions</p> <p>Labour inspection refers to the work of labour inspectors in inspecting labour units/workplace to ensure the implementation of the Labour Law and labour regulations.</p>	<p><b>Social Security Law, article 110.</b> Social security inspection agencies</p> <p>The social security inspection agencies comprise:</p> <ol style="list-style-type: none"> <li>1. Internal inspection agency is the same as the social security management organization mentioned in article 105 of this law;</li> <li>2. The external inspection agencies are the National Assembly, Provincial Assembly, State Audit Organization, State Inspection Agencies at each level, referring to the Law on Inspection of the National Assembly; Lao Front for National Construction, Lao War Veterans Union and Mass Organizations, the people and mass media.</li> </ol> <p><b>Ministerial Decision No. 0897, article 9.</b> Duties of the Inspection Division ...</p> <ol style="list-style-type: none"> <li>2. To monitor, inspect and audit the implementation of social security activities, roles, rules, work and budget plans of the organization at any level.</li> </ol> <p><b>Ministerial Decision No. 4139, article 4.</b> Scope</p> <p>The scope of inspection consists of the three below targets:</p> <ol style="list-style-type: none"> <li>1. Civil servant scheme inspection;</li> <li>2. Formal enterprise scheme inspection; and</li> <li>3. Voluntary insured member scheme inspection.</li> </ol>

Scope	
Labour inspection	Social security inspection
<p><b>Labour Law, article 172</b></p> <p>Inspection of labour affairs has the following scope:</p> <ol style="list-style-type: none"> <li>1. Implementation of policies, strategic plans, action plans, and laws on labour affairs, e.g., inspection of environment and working conditions, employment contracts, internal regulations, salary or wage, working hours, break hours, overtime work, <b>social security</b>, occupational safety and health and labour welfare.</li> <li>2. Plans programmes and projects for scientific and technological research on labour affairs;</li> <li>3. Implementation of work on labour affairs;</li> <li>4. Use of foreign labour both in formal and informal sectors;</li> <li>5. Use of child labour and female labour.</li> </ol>	<p><b>Social Security Law, article 111</b></p> <p>Inspections of social security activities shall have the following scope:</p> <ol style="list-style-type: none"> <li>1. The implementation of the law on social security;</li> <li>2. The performance of civil servants and social security officers;</li> <li>3. The development and implementation of plans on social security.</li> </ol>

## 1.2. Forms of inspection and announced visits

Article 173 of the Labour Law prescribes five types of labour inspection visits (table 3), which are described in detail in article 3 of the Ministerial Decision No. 4277. It is not clear which types of labour inspections, except the unannounced “sudden inspections” and the “inspections with advance notice”, are (or at least can be) performed on an unannounced basis. It is also worth mentioning that the same article of the law prescribes that any labour inspection must be implemented strictly in accordance with the law.

Regarding the Social Security Law, article 112 prescribes three types of inspections, which do not include the “follow-up inspections” and “special inspections” listed in the Labour Law. As with the Labour Law, there is also a commandment that social security inspections shall be strictly done according to the laws. Article 6 of Ministerial Decision No. 4139 repeats the same list of inspection types found in the Social Security Law, but adds the “ad hoc inspection”, which is similar to the “special” labour inspection prescribed in the Labour Law. Concerning the giving of advance notice to labour units prior to inspection, both article 112 of the Social Security Law and article 6 of Ministerial Decision No. 4139 prescribe similar procedures as those found in the labour inspection legislation, notably including “emergency inspections” that can be performed unannounced. However, article 18 of the Ministerial Decision No. 4139, which lays out the duties of the social security inspectors, states that it is the duty of inspectors to “inform labour units or inspected targets on the dates, location and mode of inspection prior to the actual inspection visits”, setting up a possible conflict between the Law and the subordinate regulation.

According to ILO Convention No. 81 and also as prescribed in the ILO Guidelines on General Principles of Labour Inspection (2022), as a general rule, inspection visits should be unannounced, and legal requirements for giving employers prior notification of an inspection visit or requiring consent for inspections from other governmental agencies are not compatible with the provisions of Convention No. 81 or the provisions of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and should be removed. However, in special situations, it is possible to previously announce an inspection visit when this cannot interfere with the inspection. However, as seen above, both the Labour Law and the Social Security Law, as well as their subordinate Ministerial Decisions, prescribe inspection procedures that mostly call for announced inspections, which is not in line with international labour standards.

As the mandate around social security inspections includes both governmental organizations and non-governmental labour units, one possible consideration is to prescribe the use of announced visits solely when conducting civil servant scheme inspections, or alternately to allow the inspectorate or inspector to decide when to announce or not announce their inspections. Enabling such processes would require modifying Ministerial Decision No. 4139 (and possibly Ministerial Decision No. 4277 as well) in this regard. In order not to have any doubt regarding the application of the law, which prescribes that the social security inspections shall be strictly done according to the laws, it is also recommended to revise article 112 of the Social Security Law to include the two missing forms of inspection found in article 173 of the Labour Law, namely follow-up inspections and special inspections.

► **Table 3. Types of labour inspections and social security inspections: Comparison of the relevant legislation**

Types of inspections	
Labour inspection	Social security inspection
<p><b>Labour Law, article 173.</b> Forms of labour affairs inspection</p> <p>Labour affairs inspection will take the following forms:</p> <ol style="list-style-type: none"> <li>1. Inspection is a <b>routine</b> system of inspection undertaken as per a plan over a fixed time period;</li> <li>2. Inspection with <b>advance notice</b> is inspection undertaken outside of the plan when deemed necessary, with advance notification for the party undergoing inspection;</li> <li>3. <b>Sudden inspection</b> is urgent inspection without advance notice for the party undergoing inspection;</li> <li>4. Inspection to <b>follow up</b> on the results from the implementation of what the labour inspection officers advised and instructed employers to improve or solve or on issues that could not ensure safety of employees</li> <li>5. <b>Special</b> inspection is an inspection in accordance with an order or specific announcement from a higher authority, or at the request of an agency representing employers, or an agency representing employees.</li> </ol> <p><b>Any labour inspection must be implemented strictly in accordance with the law</b></p>	<p><b>Social Security Law, article 112.</b> Forms of social security inspection</p> <p>The forms of social security inspections are as follows:</p> <ol style="list-style-type: none"> <li>1. <b>Regular systematic</b> inspections, which are carried out based on the operational plan on a regular basis and at a specified time;</li> <li>2. <b>Inspections with advance notification</b>, which are inspections outside the operational plan in the event of necessity and of which notice shall be given in advance to the inspection target;</li> <li>3. <b>Emergency inspections</b> are urgent inspections carried out when deemed necessary without advance notification of the inspection target.</li> </ol> <p><b>Social security inspections shall be done strictly in accordance with the laws.</b></p>

Note: Emphasis added.



### 1.3. Powers and duties of inspectors

Article 175 of the Labour Law prescribes a comprehensive list of powers and responsibilities of labour inspectors (table 4), such as inspecting labour at every labour unit and workplace and to fine employers and employees that violate labour laws. These powers and responsibilities are detailed in articles 7–8 of Ministerial Decision No. 4277 (see tables 5 and 6 below).

It is worth mentioning that in relation to these powers and duties of labour inspectors, the Labour Law and Ministerial Decision No. 4277 are almost fully aligned with the provisions of ILO Conventions Nos 81 and 129, with exception of the requirement that the employer must sign the inspection report (Labour Law, article 175). However, this can be addressed by including a provision stating that if the employer refuses to sign the inspection report it will have no bearing on the validity of the report.

Unlike from the Labour Law, there is no article in the Social Security Law enumerating the powers and duties of social security inspectors. These are instead solely enumerated in Ministerial Decision No. 4139 (articles 17–18, see tables 5 and 6 below). This legislative arrangement could potentially lead to future problems, including a possible challenge of social security inspectors' actions by challenging the validity of Ministerial Decision No. 4139 with regard to anything not specifically covered by the Social Security Law. In addition, with regard to the powers and duties of social security inspectors, the provisions in the Ministerial Decree No. 4139 concerning the imposition of fines do not give this power to the inspectors, nor do they clearly describe which authority is responsible for doing so.

It is also worth reiterating that article 18 of Ministerial Decision No. 4139 appears to not allow social security inspectors to make unannounced inspections, which is not in line with ILO Conventions Nos 81 and 129.

► **Table 4. Powers and duties of labour inspection officials according to the Labour Law**

Powers and duties
<p><b>Labour Law, article 175.</b> Powers and responsibilities of labour inspection officials</p> <p>Labour inspection officials have the following powers and responsibilities:</p> <ol style="list-style-type: none"> <li>1. Inspect labour at every labour unit and workplace at any time;</li> <li>2. Inspect employment contracts, internal regulations, records of timesheets, accounts for salaries or wages, calculation of overtime, subsidies, environment and safety;</li> <li>3. Make enquiries with employers and employees and other relevant individuals;</li> <li>4. Record images, sounds, copies of documents and collect samples;</li> <li>5. Issue warnings to employers and employees that violate this law and other laws in relation to labour;</li> <li>6. Order the suspension of machinery or equipment or other items in cases where machinery or equipment is unsafe for employees;</li> <li>7. Fine employers and employees that violate labour laws;</li> <li>8. Assess and certify the duration of work within the Lao People's Democratic Republic for foreign employees;</li> <li>9. Invite agencies representing employers and agencies representing employees, technical engineers, experts and relevant technical experts to participate in labour inspections;</li> <li>10. Create plans and procedures for labour inspections;</li> <li>11. Encourage, make recommendations to and consult with employers and employees;</li> <li>12. Encourage employers and employees to comply with the law;</li> <li>13. Cooperate with other sectors that are relevant to labour inspection;</li> </ol>

### Powers and duties

14. Evaluate, summarize and report results of inspections to higher authorities routinely;

15. Implement other powers and duties as determined by the law and as assigned.

Before any inspection commences, inspection officials must present their ID card.

During each inspection, officials must make a report which is to be signed by the employers.

► **Table 5. Duties of the labour inspectors and social security inspectors: Comparison of the relevant regulations**

Duties	
Labour inspectors	Social security inspectors
<p><b>Ministerial Decision No. 4277, article 7.</b> Roles of a labour inspector</p> <p>Labour inspectors have the following roles:</p> <ol style="list-style-type: none"> <li>1. To set a work plan, project and process in regards to their monthly, quarterly and annual labour inspections.</li> <li>2. To enforce the law and labour management regulations at labour units all over the country effectively and efficiently through inspection planning and organizing labour inspection work.</li> <li>3. To enact measures as punishment through the use of monetary sanctions or civil penalties against employers and workers who have breached the law and labour management regulations.</li> <li>4. To supply technical information and advice to employers and workers concerning the most effective means of complying with the law and labour management regulations.</li> <li>5. To coordinate with relevant individuals prior to performing labour inspection, however, in cases of necessity labour inspection may be carried out right away, but the result of labour inspection must be forwarded to the relevant individuals afterwards.</li> <li>6. To bring to the attention of the relevant authorities any legislative defects or abuses not specifically covered by existing law.</li> <li>7. Summarize and report the monthly, quarterly and annual labour inspection results per the instructions of the higher authority.</li> </ol>	<p><b>Ministerial Decision No. 4139, article 18.</b> Duties</p> <p>Social security inspectors shall have the following duties:</p> <ol style="list-style-type: none"> <li>1. Develop programmes, projects, budget and implementation plans and standard procedure on monthly, quarterly and yearly social security inspection;</li> <li>2. Inform labour units or inspected targets on the dates, location and mode of inspection prior to the actual inspection visits;</li> <li>3. Check the compliance of inspected targets with social security law and regulations efficiently and effectively;</li> <li>4. Ensure the provision of technical information and recommendations regarding the compliance issues to targeted labour units;</li> <li>5. Bring back the violating issues or any other issues that were not covered under any laws to the board of directors of the Lao Social Security Organization and other concerned sectors;</li> <li>6. Check the labour units concerning the accuracy of registration, contribution payment and benefit payments to employees;</li> <li>7. Check the reception of social security benefits by members and their dependents;</li> <li>8. Propose to the concerned sectors the measures (penalties and fines), discipline or administrative penalty to [be imposed on] violators.</li> <li>9. Consolidate all documents/evidence from the inspection visit, prepare findings and submit to approvers.</li> </ol>

Labour inspectors	Social security inspectors
8. Any further duties that may be trusted 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 labour inspectors in their relations with employers and workers.	

► **Table 6. Powers of the labour inspectors and social security inspectors: Comparison of the relevant regulations**

Powers	
Labour inspectors	Social security inspectors
<p><b>Ministerial Decision No. 4277, article 8.</b> Powers of a labour inspector</p> <p>Labour inspectors have the power to:</p> <ol style="list-style-type: none"> <li>1. Enter freely and without the need for notice any labour unit during the day or night for the purposes of conducting an inspection.</li> <li>2. Perform inspections of any work, process, machine, tool, objects and equipment.</li> <li>3. Interview and obtain relevant documents from the employer or representative of the employer, the worker or representative of the worker; or other individual linked to the labour inspection process.</li> <li>4. Verify and/or make a copy of the entirety or parts of the documents of the labour unit linked to labour inspection work to verify compliance with the law and labour regulations.</li> <li>5. Take or remove for the purpose of analysis samples of materials and substances used or handled, subject to the prior notification of the employer or his/her representative.</li> <li>6. Take photos, videos or audio recordings to be used as referenceable proof for labour inspection. Order a temporary halt to production of no more than 15 days, during which the employer has to pay the worker normally.</li> <li>7. Choose not to present themselves to the labour unit in case it will affect the ability to carry labour inspection work or it might present dangers to themselves.</li> </ol>	<p><b>Ministerial Decision No. 4139, article 17.</b> Powers</p> <p>Social security inspectors shall have the following powers:</p> <ol style="list-style-type: none"> <li>1. Undertake inspection visits with suspected non-compliers at labour units or workplaces or through reviewing documents/data on a regular or ad hoc basis by informing or not informing [the inspection target] in advance and then send the inspections findings to inspection targets later;</li> <li>2. Inspection targets shall provide necessary data verbally or in writing and copy part or all of the documents for filing electronically or in hard copy;</li> <li>3. Ask questions to staff in the workplace or to anyone else outside the enterprise, if necessary;</li> <li>4. Summon the inspected enterprises or individuals or concerned persons to the social security offices within a certain timeline to provide data/information, if necessary;</li> <li>5. Take photos, record videos and voices to support the analysis and use them as evidence for the next social security inspection;</li> <li>6. Warn and impose measures against violators or non-compliers based on the laws and regulations;</li> <li>7. Propose to the concerned authorities the measures to apply to violators;</li> <li>8. Monitor the compliance of inspection findings in order to enforce the law and regulations;</li> <li>9. Exercise other powers as indicated in this legislation.</li> </ol>

Based on the above comparison of the relevant pieces of legislation, it is recommended that the Social Security Law be revised to specifically include the powers and duties of social security inspectors, and these powers and duties should be similar to those of labour inspectors as put forward in the Labour Law. In particular, the power to imposition of sanctions in the event of non-compliance should be granted to the social security inspectors or to another specifically identified authorities. Ministerial Decision No. 4139 should also be revised to remove clauses that conflict with Conventions Nos 81 and 129, such as social security inspectors having the duty to announce ahead of time their intention to inspect a particular labour unit. In addition, other applicable points from Ministerial Decision No. 4277 that are in line with the aforementioned Conventions should also be added to Ministerial Decision No. 4139 to better harmonize the powers and duties of social security inspectors and labour inspectors.

## 1.4. Measures against violators and fines

Article 179 of the Labour Law describes the measures to be adopted in case of non-compliance, prescribing that any individual or legal entity that violates the Labour Law shall be re-educated, warned, fined, subject to temporary suspension of business, subject to withdrawal of business license or brought to court proceedings based on the nature of the offence, including having to compensate for any civil damage caused, as regulated by the laws and regulations.

In this respect, article 9 of Ministerial Decision No. 4277 describes a sequence of four processes that inspectors must follow based on the situation encountered, as follows:

**Process 1** – Provide technical information and write a report

**Process 2** – Issue a warning, including ordering a halt to certain types of work, if necessary;

**Process 3** – Issue fines; and

**Process 4** – Commence legal proceedings

Article 10 of the law establishes the fines and their amounts, which are divided in two groups:

1. Fines that should only be imposed after first going through Processes 1 and 2; and
2. Fines that can be imposed without first going through Processes 1 and 2.

When comparing the measures that can be used against violators as prescribed in the Labour Law and in the Social Security Law (table 7), it is possible to conclude that there is not a great deal of difference between the enforcement measures available in both inspection systems. Though it can be noted that in this instance the Social Security Law offers more details concerning the specific measures and the value of fines than what is found in the single relevant article of the Labour Law.

The measures prescribed in the Social Security law that can be utilized against non-compliant employers are education, warnings and recommending that they join social security and submit contributions within 90 days, with the possibility of being fined if that 90 days elapses without the employer taking appropriate action. However, there also appears to be no mandate in the law for social security inspectors to be able to impose sanctions in cases of non-compliance.

► **Table 7. Measures to be taken against violators: Comparison of the Labour Law and the Social Security Law**

Measures against violators	
Labour inspectors	Social security inspectors
<p><b>Labour Law, article 179.</b> Measures against violators</p> <p>Any individual or legal entity that violates this law shall be re-educated, warned, fined, be subject to temporary suspension of business, be subject to withdrawal of business license or brought to court proceedings based on the nature of the offence, including having to provide compensation for the civil damage caused, as regulated by the laws and regulations.</p>	<p><b>Social Security Law, article 116.</b> Measures against violators</p> <p>Individuals, juristic persons or organizations that have committed violations of the law shall be subject to different measures such as education, disciplinary sanctions, fines and civil or criminal charges depending on the severity of the violation as prescribed in the laws.</p> <p><b>Article 117.</b> Education measures</p> <p>Individuals, juristic persons or organizations that have a committed violation of the Law on Social Security such that the prohibited action is a minor offence and a first-time offence shall be warned and educated.</p> <p>For employers who have not followed the obligations as prescribed in this law such as not joining and submitting contributions to social security or having participated but stopped paying contributions shall be warned with an official record and recommended to join and submit contributions within ninety days.</p> <p><b>Article 119.</b> Fine measures</p> <p>Individuals, juristic persons or organizations that have committed a violation of this Law, in cases that cause a prejudice but do not constitute a criminal offense, shall be fined the same amount as the value of prejudice caused.</p> <p>Employers who have not complied with the measures related to warning, recording and timing as specified in article 117, paragraph 2, of this law shall be fined equal to the social security contributions being made by the employer in each month.</p>

Tables 8 and 9 below describe the processes that must be followed by labour inspectors and social security inspectors in relation to taking measures against violators of the law, as prescribed in the respective Ministerial Decisions. Table 10 addresses the instances in which labour inspector should impose fines on violators of the Labour Law, while table 11 describes the instances calling for fines and the values of those fines in relation to social security inspection.

► **Table 8. The process to be followed by labour inspectors regarding measures against violators, as prescribed in Ministerial Decision No. 4277**

**Process to be followed by labour inspectors regarding measures against violators**

**Ministerial Decision No. 4277, article 9. Processes against violators**

Labour inspectors have four processes to use against violators, as follows:

► **Process 1. Provide technical information and write a record**

The labour inspector provides technical information and advice to employers/workers concerning the most effective means of complying with the legal provisions in cases where the violation does not severely affect the rights and benefits of the workers.

In cases where a labour Inspector has identified that an employer has violated any provisions under the Labour Law or its regulations which severely affects the rights, benefits and safety of workers in performing their duties, the Labour Inspector must:

- Inform the employer of the violation by written notice, require the employer to take the action(s) specified in the notice, within a specified period of time, along with the measures that will be enacted for non-compliance;
- Require the employer to notify the labour inspector in accordance with the notice of any action taken to comply with the notice and the result;
- Revisit the labour unit as required to verify whether remedial action has been taken for the violation as specified in the notice.

► **Process 2. Issue a warning, including ordering a halt to certain types of work, if necessary**

Prescribe measures with immediate executory force, for example, ordering a halt in machinery or work temporarily in the event of imminent danger to the health or safety of the workers.

► **Process 3. Issue fines**

After notifying the inspected body to take remedial actions following both Processes 1 and 2 above and the given deadline has been reached but the inspected body still has not improved or made altered in accordance with the recommendation, the labour inspector can issue fines pursuant to article 10 of this Decision.

► **Process 4. Commence legal proceedings**

After taking action through the above processes, if the violator has not improved or altered the stated issue for the better, the labour inspector can compile the necessary documents along with all the evidences of violation and take the matter to the court.

► **Table 9. Process to be followed by social security inspectors regarding measures against violators, as prescribed in Ministerial Decision No. 4139**

Process to be followed by social security inspectors regarding measures against violators
<p><b>Ministerial Decision No. 4139, article 24</b></p> <p>Individuals, legal entities or any organizations that violate the law or this decision or other regulations related to social security will be warned, disciplined and fined in accordance with the laws and regulations.</p> <p><b>Article 25. Procedures for applying measures against violators</b></p> <p>The below measures shall be applied to inspection targets that do not perform their obligations in accordance with the social security law and regulations.</p> <p><b>Step 1: Warning and education measures</b></p> <p>In the event the inspection target has no intention to not participate the social security scheme, inspectors shall provide social security information to the employers and employees or LSSO staff shall go and disseminate social security benefit information. Then the inspected targets must participate the social security scheme within 90 days, otherwise the inspected targets will be considered as non-compliers and the following measures shall be applied:</p> <ul style="list-style-type: none"> <li>► Be warned through written letters and encouraged to participate in the social security scheme within 90 days;</li> <li>► If the inspected target still does not comply, it will be asked to come to the LSSO to explain the reason for not participating and to find solutions together through a written record; an additional 90 days shall be given for participation.</li> </ul> <p><b>Step 2: Fining measure procedure</b></p> <p>If the first procedure is not complied with, the LSSO will apply the fining procedure and suspend the payment of benefits until the labour unit completes the payment of remaining contribution and continues [making payments in] the next term. If [social security] members lost their entitlement to any social security benefits because they are not registered or the contributions were not paid to the LSSO, the labour unit or employers will be responsible for this loss. Labour units or employers have to ensure the payment of contribution for the missed period. The contributions made to the social security scheme will be accounted for based on the entitlement period, and members will remain eligible for benefits through subsequent payments.</p> <p><b>Step 3: Prosecution procedure</b></p> <p>If the labour units do not comply with the two procedures above, inspectors will collect all the documents/ evidence and propose to the labour management bodies or the concerning government authorities to apply prosecution procedures of penalty, fining, discipline or administrative penalty.</p>

► **Table 10. Labour inspection: Instances that call for the issuing of fines, according to Ministerial Decision No. 4277**

<b>Ministerial Decision No. 4277, article 10</b>	
<b>Instances for issuing fines that need to follow processes 1 or 2 of article 9 of the Decision</b>	
1.	For physically obstructing a labour inspector's visit to or within the labour unit premises after the inspector has made prior notification, the employer shall be fined 1,500,000 kip on the occasion of each inspection.
2.	For obstructing the exercise of a labour inspector's functions in the course of the inspection by not cooperating or concealing documents and information, such as accounts for wages, worker records, records of payments made, or other information necessary to the effective performance of the labour inspection, the employer shall be fined 1,000,000 kip per occasion.
3.	For not having an employment contract, the employer shall be fined 50,000 kip per worker per occasion.
4.	For not having the correct internal regulations or having an outdated one, there shall be a fine of 1,000,000 kip per occasion for labour units with fewer than 100 workers, and 2,000,000 kip per occasion for labour units with 101 workers or more.
5.	For not registering in the mandated social security, the employer shall be fined 1,500,000 kip per occasion (only for provinces that have an office or branch of the National Social Security Fund at the enterprise level).
6.	For not improving, altering or halting work, the use of machinery, equipment and personal protective equipment that may lead to labour accident or occupational disease, the employer shall be fined 3,000,000 kip per occasion.
7.	For concealing or omitting information regarding occupational accidents and diseases, the employer shall be fined 1,000,000 kip per occasion.
8.	For failure to comply with occupational safety and health obligations which leads to a labour accident or occupational disease that results in the death of a worker, and it is proven that negligence in relation to improving the workplace is the cause of the worker's death, the employer shall be fined 10,000,000 kip per person per occasion.
9.	For failure to appoint a health and safety official who is trained and authorized by the Labour Administration Authority, the employer shall be fined 1,000,000 kip per occasion.
<b>Instances where the fine is to be issued immediately, without needing to follow processes 1 and 2 of article 9</b>	
1.	For using a person less than 14 years of age to perform work that is harmful to his/her physical or mental health or that prevents attendance at school or vocational training, the employer shall be fined 1,000,000 kip per occasion.
2.	For using workers who are between 14 to under 18 years old, pregnant women or mothers with newborns less than 12 month old to work overtime or perform unauthorized work, the employer shall be fined 2,000,000 kip per occasion.
3.	For exceeding the overtime limits as set in the Labour Law without the permission of the Labour Management Authority or where evidence proves that workers are forced to work overtime, the employer will be fined 2,000,000 kip per occasion.
4.	For failure to comply with the minimum wage, [the employer] shall be fined 2,000,000 kip per occasion in addition to the payment of all unpaid wages to the workers.
5.	For using foreign workers without the prior permission or without a work permit from the Labour Administration Authority, the employer shall be fined 2,500,000 per person per occasion.



6. For using foreign workers in a workplace or job different from the work permit, the employer shall be fined 2,000,000 kip per person per occasion.
7. For using foreign workers exceeding the authorized duration, the employer shall be fined 50,000 kip per person per day for the duration of the days in excess.
8. For failing to register foreign workers within 30 days with the Labour Administration Authority, [the employer] shall be fined 50,000 kip per person per day in excess.
9. For foreign workers working at places without permission from the Labour Administration Authority, [the employer] shall be fined 1,000,000 kip per person per occasion.
10. For failing to appoint a health and safety official who is trained and authorized by the Labour Administration Authority, the employer shall be fined 1,000,000 kip per occasion.

► **Table 11. Social security inspection: Instances that call for fines and the value of these fines, according to Ministerial Decision No. 4139**

**Ministerial Decision No. 4139, article 26**

Individuals, legal entities, or organizations that violate social security regulations—particularly prohibitions classified as criminal offenses resulting in property damage—will be fined an amount double the total value of the damages caused.

Labour units that follow step 1 in article 24 will not be fined. If, on the contrary, a labour unit does not participate in the social security scheme, it will be fined as below:

1. If the labour unit has not participated in the social security scheme, the fine will be equal to the proportion of the employer's contributions for each month. After a period of three months, if the labour unit still has not participated and has not complied with the notice, inspectors shall carry out the inspection visit again and re-apply the measures;
2. If the employer does not register all employees to the social security scheme or does not declare the entire list of employees, the fine will be equal to the employer's contribution proportion based on the number of unregistered employees or the number of employees that have not paid contributions to the social security scheme;
3. If the employer has collected contributions from employees but has not paid or delayed the payment to the social security scheme for more than three months, the fine will be equal to the commercial bank loan interest calculated by the Bank of Lao PDR in each period using unpaid the contribution amount for interest calculation.

Comparing the processes for taking measures against labour units that have violated the law, Ministerial Decision No. 4139 on social security inspection prescribes a very soft and time-consuming procedure, involving several steps of education and warning, and giving employers more than 270 days to comply before starting any sanctioning measures. Bearing in mind the number of labour units to be reached and the number of social security inspectors, and considering the sanctioning principles and systems adopted in other countries, this procedure almost certainly will lead to a very low-level deterrent effect on potential non-compliance.

By comparison, article 175 of the Labour Law gives labour inspectors the power to impose sanctions, and the procedures in Ministerial Decision No. 4277 seem to be faster, and include the possibility of immediately imposing sanctions during the first visit for certain violations. There are also prescribed sanctions in case of obstruction, in line with ILO Convention No. 81 and the ILO Guidelines on General Principles of Labour Inspection. With regard to social security inspections, immediate sanctions and sanctions for obstruction are not mentioned in Ministerial Decision No. 4139.

If it is not possible to have a unique regulation and procedure for both labour administration and social security inspections, a possible suggestion is to include in the Social Security Law the provision of sanctioning power to social security inspectors, and to adapt the enforcement measures, using Ministerial Decision No. 4277 as a model, to prescribe:

- A faster procedure, possibly with education steps conducted during a campaign or by officials other than the inspectors.
- One single warning before being sanctioned/fined, with this warning possibly only being directed to new labour units or small- and medium-sized enterprises.
- Establish fine procedures and fine values, considering the seriousness of the offense; specify increases in the fines in the event of recidivism; and allow for immediate fines in some special cases, such as obstruction.

## 1.5. Steps for the harmonization of laws and regulations

Following the analysis of the laws and regulations related to social security inspection and labour inspection, several changes to the Social Security Law and subordinate regulations were suggested to the LSSO with the aim of creating a harmonized inspection system. These suggestions were made using the labour inspection legal framework as a reference, as well as in due consideration of important aspects prescribed in relevant ILO Instruments. Having put forward these suggestions, it was possible to discuss at the meetings held during the second mission a possible draft for a future revision of the Social Security Law, as shown in Annex 1. The draft was not based on an official English version of the legal instruments, but solely on available non-official translations of the Lao-language version. While it cannot be considered a proper proposal, as it does not fully consider the legal terms and language adopted in the Lao legal system, the draft summarizes the main conclusions raised during the discussions and could be a starting point for a future law review proposal.

Such a revision of the Social Security Law would undoubtedly involve a long process following a work plan that considers several steps involving meetings to establish the plan; consultations on an impact assessment of the proposed amendments; and collecting, consolidating and analysing the assessment data – all before preparing the draft amendments and initiating debate on the proposed changes to the Law. Nevertheless, it is possible to continue inspection activities, carefully learning from doing and not stressing the most vulnerable points, while waiting for the complete law and regulations revisions.

## 2. Strengthening and modernizing administration

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The suggestions to strengthen and modernize the administration of social security inspections are divided into six subgroups.

1. Improving social security inspection visit procedures;
2. Development of standard operating procedures;
3. Tools and information systems;
4. Cooperation and partnerships;
5. Code of ethics for social security inspectors and complaints; and
6. Training.

### 2.1. Improving social security inspection visit procedures

The three main issues detected during the analysis of the inspection procedure are as follows:

1. that most (if not all) inspection visits must be announced;
2. that the inspector must inform the employer of the reason for the inspection activity before performing the inspection visit; and
3. that it is mandatory for the report with the inspection findings to be signed by the inspection target after finishing the inspection.

The first issue has already been addressed in section 1.2 above, which notes that international standards call for unannounced visits. The second issue can create problems if the inspector needs to inform the employer that the inspection is being conducted due to a complaint or due to a certain specific issue, as doing so could reveal the identity of the complainant or otherwise go against the principle of confidentiality. The third issue presents a problem because there is no clarity around whether the signature of the employer is required for the inspection report to be considered valid, which opens up the possibility of an employer simply refusing to sign so that no valid report can be filed. All of these issues stem from procedures that are not in accordance with the ILO Guidelines on General Principles of Labour Inspection, based on ILO Convention No. 81.

It is therefore recommended that possible revisions be made of Ministerial Decision No. 4139 to:

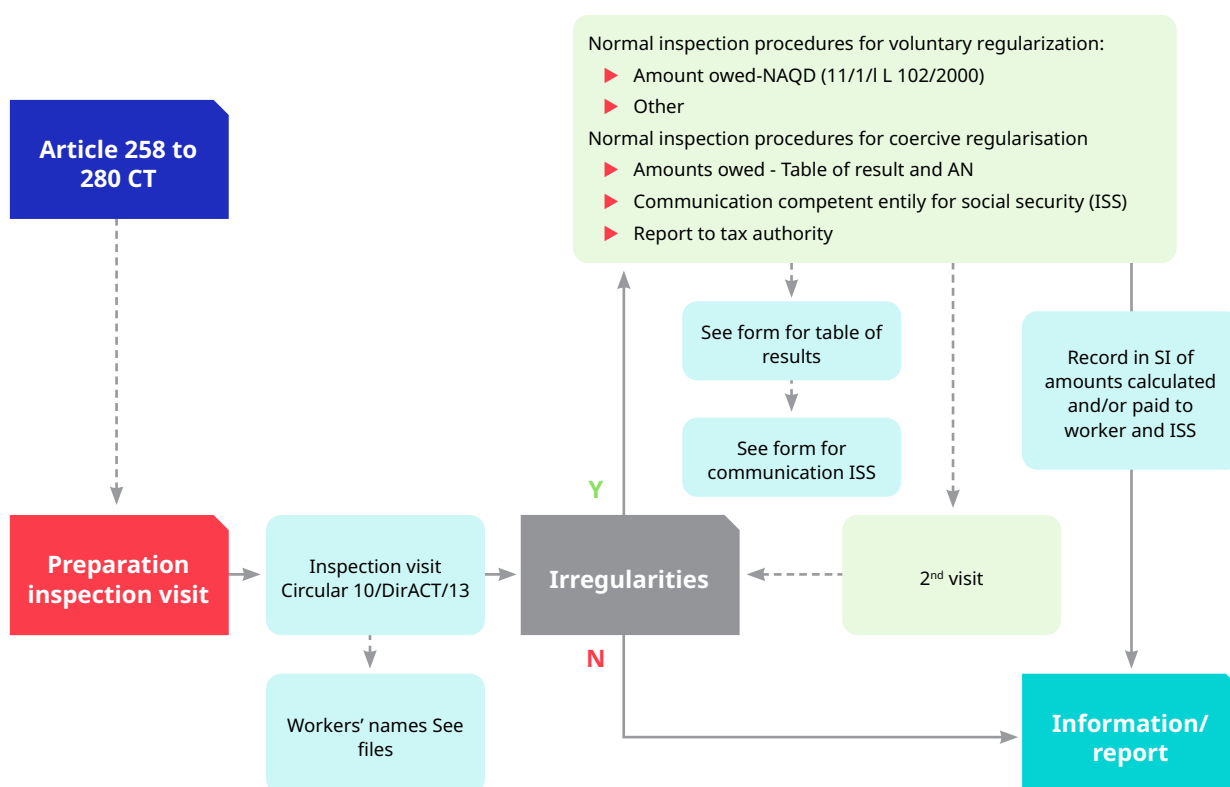
1. unambiguously allow for unannounced visits;
2. remove the mandatory requirement that the inspector must inform the inspection target of the reason for the inspection before starting the inspection visit, or otherwise include a provision that this should be up to the discretion of the inspector to decide not to provide this information when doing so could interfere in the inspection activity. This revision could be further improved with the inclusion of a requirement to treat as confidential the source of any complaint or that a visit of inspection was made in consequence of the receipt of a complaint.
3. make it unambiguously clear that the inspection report will be considered valid regardless of whether the inspection target signs it, but that the inspector should make note of the employer's refusal to sign.

## 2.2. Development of standard operating procedures

During the development of the Guidelines for Social Security Inspections in the Lao People's Democratic Republic, which comprises the procedures in general adopted by the social security inspectorate, a suggestion was raised to possibly map all specific procedures, especially the inspection procedures and to develop standard operating procedures (SOPs) for each situation, describing the activities necessary to complete social security inspection tasks in accordance with the Guidelines.

There are several examples and strategies for the development of SOPs. One possible approach is to create flowcharts of the main procedures that should be followed by the inspectors, and these could be added as future annexes to the Guidelines, with links to existing forms, reports and other useful information. Figure 1 offers an example of such a flowchart, which comes from the Portugal's Labour Inspection Inspection Guidelines.

► **Figure 1. Example of a standard operating procedure flowchart from Portugal's Guidelines for Labour Inspection**



## 2.3. Tools and information systems

Sound management of information and statistical data contributes to making an inspectorate more efficient and effective. Information systems are important not only for the field social security inspectors but also for the top and middle managers and directors at the central, regional and local levels. The inspectorate must discuss and select a management information system (MIS) suited to meeting the demands of the strategies, objectives and operational procedures of the inspectorate, identify a supplier, identify who will have access to the MIS, and identify what the information can be accessed by field inspectors, middle managers, top managers and so on. There are also already several pieces of information that could be useful for social security inspection that are in the possession of the labour inspectorate, as well as other sources in the Government, such as the Ministry of Commerce, tax authorities, and so on. Having a proper MIS represents a major step towards integrating information exchange with these other government bodies.

Due to the importance of a suitable and user-friendly information system, the ILO has developed for the Lao People's Democratic Republic an MIS to collect and manage labour inspection activities called LIDAS; however, according to the meeting held with the labour inspectorate, it is not in use. Certainly, this should be investigated to understand why this system is not in being used.

Apart from systems, another possible tool is to develop a social security checklist, bearing in mind the advantages and disadvantages of using a checklist. If the decision is made to adopt such a tool, it would be advisable to have an e-checklist with several links to explanatory notes or applications to help the inspector during their field activity, including being able to view legal references and information on how to check and calculate enterprises' social security contributions. This checklist could possibly be part of the contents of the social security field inspection system.

Several recommendations can be raised in this space:

- An analysis should be conducted to understand the possible constraints of LIDAS and, if possible, solve and adapt the system to be used and shared either by the labour inspectorate and/or social security inspectorate.
- A mechanism for sharing data between the labour inspectorate and the social security inspectorate should be developed.
- Arrangements should be put in place to receive the data from other ministries, or to integrate with their systems. Useful data along these lines might include numbers of registered labour units, numbers of workers, payroll information and so on.
- If necessary, adapt or develop a social security inspection system to collect, treat and manage information.

## 2.4. Cooperation and partnership

Several times during the mission the urgent need for cooperation and partnership with other institutions were highlighted, both in sharing systems or information among governmental institutions as well as in performing inspection activities. In this regard, strict cooperation with the labour inspectorate based on the exchange of information, coordination of activities and the implementation of joint programmes and visits in pursuit of commonly defined objectives is highly advisable.

In addition to cooperating with the labour inspectorate regarding inspection activities, there are several other governmental bodies that the social security inspectorate can work with to facilitate social security inspection, either through the provision or sharing of data or by working to positively influence compliance. Two prominent issues raised during the mission concerned finding a way to access all existing labour units and the need to compare the contributions paid by the employers and employees against the payroll or the enterprise revenue. Addressing these issues could be greatly facilitated by crosschecking against information from other sources in the Government. For instance, registration authorities in the Ministry of Commerce and the Tax authorities represent valuable sources of information on the labour units across the country and whether they are operating or not, as well as the number of authorized workers – including both national and foreign workers. Having access to such information would be useful in selecting and better targeting labour units for inspection and enforcement activities.

Compliance can also be improved through collaboration. Some countries have adopted a policy of automatic or immediate registration in social security in order to register one's enterprise and as a condition to keep registered. Another institution that could positively influence compliance is the State Audit Organization, which is responsible for performing audits of large-scale government and international projects supported by donors and enterprises. Including social security in their auditing activity, could influence compliance among enterprises engaged in this projects.

Based on the above it is recommended to pursue cooperation between the social security inspectorate and the labour inspectorate on the following issues:

- Sharing of information collected during labour inspection with the social security inspectorate, according to a selection informed by the social security inspectorate, such as the number of workers in inspected labour units, salaries paid, mode of payment and so on. This information could be preferably shared by through common system adopted by both inspectorates.
- Possibly performing joint inspections, including sharing vehicles and budget, in order to enhance the coverage of the labour units reached.
- Performing joint education and awareness-raising campaigns.

Additionally, it is recommended to pursue cooperation with other government bodies, as follows:

- Collaborate with the registration authorities in the Ministry of Commerce and the Tax authorities, either by sharing systems or receiving selecting data to crosscheck with other available information in order to better target inspection activity.
- Possibly include social security registration and payment of contributions as criteria for a labour unit be registered and/or keep registered with the Ministry of Commerce.
- Collaborate with the State Audit Organization, including in their audit procedures mandate regarding social security compliance.

## 2.5. Code of ethics for social security inspectors and complaints

There are several references in the Social Security Law and Ministerial Decision No. 4139 to ethical behaviour by social security inspectors. The most prominent can be found in article 21 of the Ministerial Decision in the form of prohibitions of certain behaviours, with disciplinary measures against inspectors prescribed in article 28. One possible approach to the question of advancing ethical behaviour in social security inspection is to adopt a Code of Integrity for the whole inspectorate – not just for social security inspectors, but for all who work in the inspectorate. In this regard, the International Association of Labour Inspectors (IALI) adopted in 2008 a Code of Integrity<sup>3</sup> intended to provide a framework designed to stimulate each country to discuss and adopt its own code reflecting these common principles and suited to local conditions.

Regarding the handling of complaints, it is widely recognized that, on average, reactive inspection visits achieve far more in terms of on-site improvements than proactive visits. In this regard it is essential for the inspectorate to have a well-known system and procedure to receive and address complaints from:

- workers regarding violations in their labour unit;
- stakeholders concerning possible abusive behaviours and violations of statutory duties by public officials; and
- public officials, to report that they were threatened, abused or intimidated.

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<sup>3</sup> IALI, *A Global Code of Integrity for Labour Inspectors*, 2011.

## 2.6. Training

As a new inspectorate, formed by recently joined inspectors, it is fundamental to design and operate a training programme, consisting of several modules, for field inspectors as well as for top and middle managers at the central, regional and local levels. To prepare and deliver a training programme based on operational practices, the developed Guidelines, international instruments and good practices, such as strategic compliance planning, is highly recommended, and should be designed in consideration of training needs and the target audience.

Designing and implementing a training programme that considers the above-mentioned aspects is essentially mandatory to perform good inspection activities. An example of some aspects that could be considered in a future training programme is shown in table 12.

► **Table 12. Tentative training grid considering the topics or abilities and audience groups in the Social Security Inspection**

Topic/ability	Top managers	Middle managers	Field inspectors	Number of Hours	
				Theory	Practice
<b>LSSO Guidelines</b>					
<b>Applicable law and regulations</b>					
<b>Operational procedures</b>	Adapted	Adapted	Adapted		
<b>ILO Conventions and guidelines</b>					
<b>Soft skills: communication Skills, interviewing skills, dealing with uncooperative situations/ employers)</b>	Adapted	Adapted	Adapted		
<b>Inspection visit (planning, conducting, reporting)</b>					
<b>Strategic compliance planning</b>					
<b>Policy and planning</b>					
<b>Cooperation and partnership</b>					
<b>Negotiation</b>					
<b>Information system</b>	Adapted	Adapted	Adapted		
<b>Code of ethics and integrity</b>					
<b>(...)</b>					

# Annex 1.

## Proposed Draft for Future Law Revision: Aligning Social Security Inspection with Labour Inspection in the Lao People's Democratic Republic

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Please, observe in red the inclusions or amendments to the current legal text.

### Article 110 Social Security Inspection Agencies

The social security inspection agencies are composing of:

1. Internal inspection agency is the same as the social security management organization mentioned in article 105 of this Law;
2. The external inspection agencies are the National Assembly, Provincial Assembly, State Audit Organization, State Inspection Agencies in each levels, referring to the Law on Inspection of the National Assembly; Lao Front for National Construction, Lao War Veterans Union and Mass Organizations, people and mass medias.
3. Social security inspection officers.

External inspection has the objective of inspecting the implementation of duties of the internal Inspection agency to ensure its strength, transparency, fairness and efficiency.

### Article 111 (Amended) Contents of Social Security Inspections

1. Inspections of social security activities shall have the following contents:
  - 1.1. The implementation of the law on social security;
  - 1.2. The performance of civil servants and social security officers;
  - 1.3. The development and implementation plans on social security.
2. The scope of the implementation of the law on social security consists of three inspection targets:
  1. Civil servant scheme inspection;
  2. Formal enterprise scheme inspection; and
  3. Voluntary insured member scheme inspection.



## Article 112 Forms of Social Security Inspections

The forms of social security inspections as follows:

1. Regular systematic inspections, which are carried out based on the operational plan on a regular basis and at a specified time;
2. Inspections with advance notification which are inspections outside the operational plan in the event of necessity and of which notice shall be given in advance to the inspecting target;
3. Emergency inspections are urgent inspections carried out when deemed necessary without advance notification inspecting target.
4. Inspection to follow up on the results from the implementation of what the social security inspection officers advised and instructed inspection targets to improve or solve.
5. Ad hoc inspection is an inspection that follow the orders, decisions, guidance, and notices from the head of administration offices, the inspection bodies in each level or the request from any local citizens.

Social security inspections shall be strictly done in according to the laws.

## Article 113 Inspection Reports and Correction Measures (to be discussed)

The inspection committee shall summarize and report on the result of inspections and propose measures of the violations to the authorized organization for consideration.

The inspection committee shall be legally responsible for the findings reported and to ensure confidentiality of all social security documents that are reviewed.

### New Article Social Security Inspection Officials

Social security inspection officials are employees that have been appointed by the Minister of Labour and Social Welfare to undertake their duties in social security inspection.

Social security inspection officials are subject to the following qualifications:

1. Have sound knowledge and understanding of laws and regulations or social security related works;
2. Any specialty with degrees;
3. At least three year working experiences;
4. Have good attitude, good ethics, take responsibilities, and be honest; and
5. Be persons that strictly respect to the laws and regulations.

### New Article Social security inspectors shall have the following powers:

1. Undertake inspection visit at labour units or working places or through reviewing documents/data in regular or ad hoc basis by informing or not informing in advance and them send the inspections findings to inspected targets later;
2. Ask questions to staff in the working places or anyone else outside the enterprises if necessary;
3. Summon the inspected enterprises or individuals or concerning persons to the social security offices in a certain timeline to provide data/information if necessary;
4. Take photos, record videos and voices for supporting the analysis and use them as evidence for the next social security inspection;

5. Warn and impose measures to violators or non-compliers based on the laws and regulations;
6. Propose to the concerning authorities for applying measures to violators;
7. Monitor the compliance of inspection findings for the law and regulation enforcement
8. Perform other powers as indicated in this legislation.

Before inspection commences anytime, inspection officials must present a valid social security card issued by National Social Security Organization.

#### **New Article Termination of Terms of being Social Security Inspectors**

The roles of being social security inspectors shall be terminated when being substituted, relocated, disciplined, dismissed or death.

#### **Article 114 Powers and Obligations of the Inspecting Target**

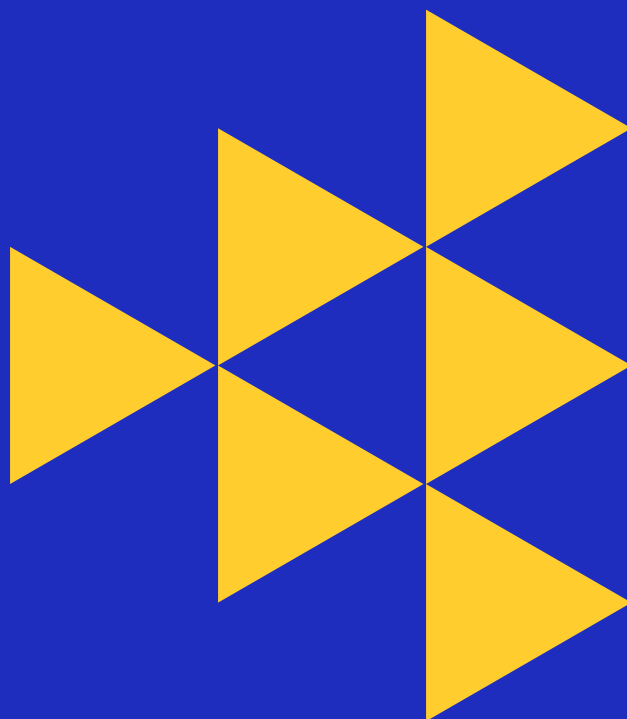
An inspecting target shall have the following powers and obligations:

1. To request the inspection officers to represent the agreement and inspection identification cards;
2. To petition the relevant organization on the inappropriate inspection as prescribed in the rules and regulations;
3. To facilitate the mission of inspections officers by providing requirement documents, information, evidences and answering to the issues raised by the inspection committee;
4. To exercise other powers and obligations as prescribe in the laws.
5. To provide necessary data verbally or in written and copy part or all of the documents for filing electronically or in hard copy.



► **Overview of the current functioning of social security inspections and recommendations**

Strengthening compliance with social security  
in the Lao People's Democratic Republic



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