

SUPPORTING OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE: ROLE OF THE LABOUR INSPECTORATE IN PORTUGAL

Introduction

Ensuring compliance with occupational safety and health (OSH) regulations and improving working conditions is a goal aligned with the principles of the European Directive 89/391 from 12 June 1989¹ and the Decent Work Agenda,² and is also a Sustainable Development Goal.³ In Portugal, the National Authority for Working Conditions (Autoridade para as Condições do Trabalho – ACT) is the public body responsible for labour inspection. The Ministry of Labour, Solidarity, and Social Security (Ministério do Trabalho, Solidariedade e Segurança Social – MTSSS) is the central regulatory entity for OSH in the country, with the provision that, in matters of health, the Ministry of Health is consulted by the MTSSS and plays a shared role in the activities carried out by ACT.

Scientific research has highlighted the critical role the Labour Inspectorate and prevention services can play in OSH compliance (Walters et al., 2021). This policy brief results from a study conducted in Portugal to provide further insights on this topic, including expert interviews with Portuguese labour inspectors. It addresses the challenges and obstacles labour inspectors encounter when fulfilling their inspection duties, along with initiatives developed in the country and recommendations for the future.

Specifically, it highlights the practices adopted by ACT regarding:

- 1) the conduction of inspective visits in pairs;
- 2) co-enforcement inspection, with cooperation between the ACT and other public authorities and private sector organisations;
- 3) the use of new technological tools to enhance OSH compliance; and
- 4) the specificities of micro, small and medium-sized enterprises.

Challenges related to labour inspectors' activity

In addition to the Legal Framework for the Promotion of Occupational Safety and Health (Law No 102/2009, from 10 September⁴), there is a wide array of legal instruments that define sectoral regulations and specifications (as is, for instance, the case of civil construction), for certain high-risk activities (such as working at heights or in confined spaces), or even for specific risks (such as chemical risks, with specific regulations for certain substances like asbestos). The labour inspectors who participated in the qualitative data collection phase of this study widely mentioned this fragmented legal framework, which is difficult for each inspector to fully master, especially considering that inspection activities follow a generalist model.

The training of labour inspectors was highlighted as a determinant factor of the inspection activity, with a clear distinction made between initial training,⁵ which takes place during the early stages of their career, and continuous training. The inspectors consider initial training to be comprehensive and adequate to meet the job's demands. Yet, concerning continuous training, despite the investment by ACT (i.e. 8,114 hours of training in 2023), it is not perceived as being as immersive. There is still a need for training that focuses on how inspectors should act in critical situations (i.e. harassment and violence

¹ See: <http://data.europa.eu/eli/dir/1989/391/oj>

² See, for instance: <https://files.diariodarepublica.pt/1s/2023/07/12900/0000600029.pdf>

³ Namely, goal 8 of the United Nations' Sustainable Development Goals. More information is available at: <https://sdgs.un.org/2030agenda>

⁴ More information is available at: <https://diariodarepublica.pt/dr/detalhe/lei/102-2009-490009>

⁵ The internship for accessing the labour inspector career comprises the following phases: i) a theoretical phase, which is intended to provide the knowledge, skills and behaviours appropriate to the performance of the respective functions and has an estimated duration of four months; ii) a practical phase, which aims to contribute to the achievement of knowledge, skills and behaviours acquired in the theoretical phase, and has an estimated duration of eight months.

towards them) and cases of new forms of work. Inspectors referred to the need for ongoing updates regarding legal changes to the Labour Code (and on the aforementioned fragmented legislation) and to more practice-oriented training for in-field inspections. For example, inspectors noted challenges during inspective visits targeting platform-based work, where they felt that their protocol was not suited to the new situation they were facing in the field. The inspectors acknowledged that better preparation for these operations would have been beneficial, as their standard approach required several adjustments.

The issue of limited resources is often mentioned as a critical factor in any public service, and it was no exception in the present study. There was a consensus amongst the labour inspectors interviewed that additional investment is required in resources related to promoting OSH, particularly through the training of labour inspectors and the increase of ACT's OSH promotion experts. Participants noted that the current number of OSH experts is inadequate to meet the demand, and their profession is perceived as less esteemed and appealing compared to labour inspectors. Furthermore, OSH promotion experts at ACT only exist in a few decentralised services, resulting in inconsistent and limited coverage across different geographic areas.

Conversely, it is essential to emphasise the dispersion of the business fabric in Portugal, which makes inspection activities more demanding. The employed population has experienced notable growth in recent years, reaching a total of 4.8 million⁶ workers in 2023. This increase emphasises the need to monitor the inspector ratio to maintain the effectiveness of inspection activities.

Following this perspective, technology may be an essential resource for more efficient management of human resources. In the specific case of ACT, two aspects are underlined:

- i) the need for coordination among the various operational systems utilised by the inspectors, which could help save them time by providing facilitated access to information about the processes, thus eliminating the need for frequent switching between systems during the form-filling process; and
- ii) the need for an integrated system that allows data interoperability between different public bodies for evidence-based action, and often without the need for in-person evidence collection by the labour inspectors (e.g. the verification of the limit of fixed-term contracts by simply cross-checking the data declared by employers to Social Security).

Current practices and initiatives

The labour inspection carried out within the scope of ACT's mission follows a generalist inspection model in which, in addition to OSH, the inspectors' action also covers the field of labour relations. There are 448 labour inspectors⁷ in the service, having increased from 303 in 2018 (ACT, 2023), with an inspector ratio of 10.5 inspectors per 100,000 workers according to the OSH Barometer (EU-OSHA, 2024).

Inspective visits carried out in pairs

In Portugal, inspective visits are conducted by two inspectors at a time (ACT, 2019). However, each labour inspection process has just one inspector as a process holder, whether for reactive or proactive inspections. While the process holder is responsible for how the visit is conducted (i.e. preparing the visit and then placing this data in ACT's platforms – SINAI and S360⁸), the second labour inspector aids in the process of listening to the workers and consulting documentation. The pairs of inspectors rotate within the larger teams to which the inspectors are allocated. This is a traditional practice in the country, described as an example of good practice by the ACT and labour inspectors.

This form of work organisation is:

- a safety and health prevention measure for labour inspectors, contributing to the sense of protection in situations of violence towards them;

⁶ See: https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0011439&lang=pt&contexto=bd&selTab=tab2

⁷ Data from 31 August 2024.

⁸ SINAI is the National Information System for Inspective Activity (Sistema de Informação Nacional da Atividade Inspetiva) S360 is a customer relationship management platform for the requests submitted to ACT

- a legal safeguard measure, as it allows for the presence of a second witness to the situation identified by the labour inspector in charge of the process;
- a technical training measure, as the pairs have different academic backgrounds and levels of experience, and also a way of ‘compensating’ for the generalist approach when one of the elements has specialised training in a specific domain or work sector; and
- a way of guaranteeing the complainant’s anonymity in reactive inspections, as one of the inspectors can focus on gathering evidence about the worker or the issue related to the complaint while the other can collect other types of information, concealing the real reason behind the visit.

Although there are no statistical indicators to support the impacts of this form of work organisation, there is a consensus among the labour inspectors that it is a good labour inspection practice. However, formal recognition is essential to provide visibility to the time the inspectors who are not process holders contribute to the visits and their positive outcomes.

Co-enforcement between ACT and other public authorities and private sector organisations

Labour inspectors often intervene in situations that require cooperation with other institutions and actors at a national and local level (e.g. social partners, specifically employer associations and sectoral unions). For instance, when dealing with undeclared work, ACT’s intervention involves coordinated efforts among different entities — within cooperation groups, on a variable geometry basis — which can have a direct or indirect impact on working conditions.

These groups can mobilise various institutions depending on the specific problem and intervention needed. The most common type of cooperation with other institutions is cooperation at a public body level, totalling 1,389 actions by September 2024.⁹ In this type of cooperation, different public institutions cooperate in actions on the ground at a local level. These groups are designated Operational Interinstitutional Groups (GIO). Despite the possible discrepancies that may exist concerning the specific practices of the groups distributed across different geographic locations, they have the following potential:

- Establish collaborative relationships with other organisations and engage directly with stakeholders to build trust.
- Offer a unified and adaptable response by tailoring the group’s structure to the specific circumstances under consideration, thereby effectively addressing the situation’s complexity.
- Reduce response time through consolidated action protocols and a history of collaborative efforts. This includes clearly defining who should intervene, the order of intervention, the responsibilities of each party and who to contact from each institution.

Enhancing OSH compliance through new technological tools

To strengthen the Labour Inspectorate’s work in Portugal, an attempt has been made to modernise the resources by developing new technological tools. Among these is ACT’s development of digital simulators, a chatbot (ACTia) and a mobile app.

The digital simulators are tools that allow for the inclusion of data relating to a concrete situation, for users to quickly and easily access information on labour relations and working conditions, such as holiday entitlements, parental or sick leave, and others. These tools have appeared to be effective in granting workers and companies access to specific information, having been subject to adjustments and corrections since their implementation (e.g. changes in the Labour Code, technical issues). In addition, ACT recently launched a new website intended to simplify access to these various services and the request forms.

The availability of simulators and chatbots allows workers and employers to access technical information quickly and directly. After the launch of ACT’s new portal, including the new website and app, the website had received 16 million visits by 16 September 2024, the digital simulators had over 11 million visits during 2023 and 2024, and the chatbot had over 200,000 interactions. The most popular simulator was the ‘Termination of employment contract compensation simulator’, which calculates the

⁹ Total of actions that took place until 16 September 2024.

amounts stipulated by law for situations of employment contract termination, including compensation, when applicable, and any amounts relating to holidays, holiday pay and Christmas bonuses. While most of the available simulators regard labour relations, two of them are specific for OSH (i.e. one for asbestos, and one for the identification of the applicable OSH service modalities).

When it comes to the impacts on the labour inspectors' work, the tools can facilitate the interaction of the tools' users with the labour inspectors when using ACT's information service (e.g. inspectors mention that workers often come to the service with the results of the simulators they used). Implementing these artefacts thus enables technology to be operated as a tool for promoting decent working conditions and allows labour inspectors to focus on situations that may require a deeper and more specialised analysis. Despite these perceived benefits, no further data have been collected addressing their efficiency.

OSH compliance in micro, small and medium-sized enterprises

According to the Office for Strategy and Planning (Gabinete de Estratégia e Planeamento – GEP) of the MTSSS, by 2022, SMEs constituted 99.6% of Portugal's enterprises — of which 81% were micro-enterprises — employing 68.8% of the labour force (GEP, 2023). SMEs are traditionally harder to reach in order to enforce OSH compliance (ILO, 2021).

To ensure that SMEs comply with OSH requirements, labour inspectors tend to adopt more pedagogical and less punitive approaches when possible (considering the type of infraction and the company's history). They may also consider appropriate actions within the legal framework for penalties applied to companies.

In addition, several instruments are made available in Portuguese for diagnosis and risk assessment, as well as verification checklists, known as the Online interactive Risk Assessment (OiRA) tools.¹⁰ These tools are aimed at different economic activity sectors and allow workers and employers to access and use them easily. To support their use, ACT has developed several promotion actions for SMEs, including exemplification moments. The OiRA tools totalled 3,308 uses on the ACT portal in 2023, and 2,349 by 16 September 2024.

While they have been proven to be accessed and used, SMEs lack continuous follow-up and support over time, which may limit the tools' efficiency in the long term.

Policy pointers

Based on the perspective of labour inspectors, a series of policy pointers have been put forward for short- and medium-term implementation:

- Compile all existing OSH regulations and specific regimes regarding different activity sectors in the same legal framework. This should be followed by a review of the regulations to address current and cross-cutting OSH concerns (e.g. new forms of work).
- Investment in labour inspectors' continuous training, enhancing skills and knowledge to improve OSH compliance, and intervention in work scenarios reconfigured by the twin transition (i.e. green and digital transition).
- Increase the number of OSH promotion experts, in addition to inspectors, within ACT.
- Integrate ACT's two internal systems used by labour inspectors (i.e. SINAI and S360) into a single unified system.
- Design integrated information systems between ACT and other public bodies to ensure data interoperability, such as with Social Security, GEP and the Directorate-General for Health.
- Integrate labour inspectors' experience-based knowledge into the development of intervention protocols, especially in new work scenarios (e.g. platform work, for which inspection protocols need to be created or adapted).
- Follow the practice of conducting inspective visits in pairs, while formally acknowledging the role of the inspector who does not hold the status of 'process holder'.
- Define new indicators to evaluate the impacts of labour inspectors' practices, beyond the indicators currently used (e.g. the number of OSH infractions) or further detail them (e.g. number of visits done to the same location either: i) to ensure that the determined measures

¹⁰ See: https://oira.osha.europa.eu/pt/oira-tools?text=&field_country%5b35%5d=35&sort=alphabetically

were effectively implemented; or ii) to gather evidence over extended periods, especially in cases involving complaints of 'moral harassment'), also taking into account the changes that occur as a result.

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