



Labour Inspection in Türkiye*

Türkiye'de İş Teftişi

ABSTRACT

Labor inspection is a fundamental element of labor management system, ensuring the implementation of labor policies, providing feedback, and allowing for the necessary revision of these policies. In recent years, the effectiveness of public units conducting labor inspections has been limited, particularly in reaching disadvantaged groups and bringing informal employment into the formal sector, due to the proliferation of flexible employment forms. The International Labour Organization (ILO) works to strengthen labor inspection systems to ensure the more effective application of labor law, social security law, and occupational health and safety law through the promotion of international labor standards. In this study, the ILO standards for labor inspection and the duties of Social Security Institution Inspectors, Social Security Auditors, and Ministry of Labour and Social Security Labor Inspectors in Türkiye are examined within the framework of the relevant legislation.

Keywords: Social Security Institution Inspectors, Social Security Auditor, Labor Inspectors of the Ministry of Labor and Social Security, Labour Inspection

ÖZET

İş teftişi, işgücü politikalarının uygulanmasını sağlamak, geri bildirim sunmak ve gerektiğinde bu politikaların yeniden düzenlenmesine olanak tanımak açısından işgücü yönetim sisteminin temel bir unsurudur. Son yıllarda, esnek istihdam biçimlerinin yaygınlaşması nedeniyle iş teftişi yapan kamu birimlerinin etkinliği özellikle dezavantajlı gruplara ulaşılması ve kayıt dışı istihdamın kayıt altına alınmasıyla sınırlı kalmaktadır. Uluslararası Çalışma Örgütü (ILO), uluslararası çalışma standartlarının teşvik edilmesi yoluyla iş hukuku, sosyal güvenlik hukuku ve iş sağlığı ve güvenliği hukukunun kurallarının daha etkin uygulanmasını sağlamak amacıyla iş teftiş sistemlerini güçlendirmek için çalışmaktadır. Çalışmamızda ILO'nun iş teftişine yönelik standartları ve Türkiye'de iş teftişi kapsamında görev yapan Sosyal Güvenlik Kurumu Müfettişlerinin, Sosyal Güvenlik Denetmenleri ile Çalışma ve Sosyal Güvenlik Bakanlığı İş Müfettişlerinin görevleri mevzuat çerçevesinde ele alınmıştır.

Anahtar Kelimeler: Sosyal Güvenlik Kurumu Müfettişi, Sosyal Güvenlik Denetmeni, İş Müfettişi, İş Teftişi

INTRODUCTION

In order to discuss the concept of inspection and labor inspection, there must be a process and an examination to determine whether this process conforms to predetermined standards. In practice, the concept of inspection is a term that encompasses and is often used interchangeably with words such as audit, control, revision, examination, inspection, and supervision. Therefore, it is necessary to explain the meanings of these words separately (Association of Financial Accountants, 1999:3).

The term "inspection" is defined in the Turkish Language Association (TDK) dictionary as "proper inquiry and investigation, examination and control; auditing, inspection." Inspections are carried out by personnel appointed by an authority and authorized to conduct inspections, and are performed as needed and at unspecified intervals. During an inspection, in addition to examination and comparison methods, all characteristics of the inspected unit are investigated, its field of activity is determined, and its working conditions are evaluated (Ministry of Finance and Customs, 1990:20).

In general, inspection and auditing can be defined as "the investigation by competent authorities of whether both state offices and organizations, as well as institutions established under private law and workplaces, operate in accordance with the law in terms of public interest" (Taymaz,1982:4).

In this context labor inspection refers to the inspection conducted on behalf of the state regarding the implementation of all laws related to working conditions and the labor market, covering issues such as employees'

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wages, working hours, and occupational health and safety. In other words, it is the state's monitoring of whether or not the legislation related to working life is being implemented.

The concept of auditing also encompasses the accounting audit process. In today's globalized world, society and technology are rapidly becoming more complex and advanced, making information a cornerstone of progress. Under these conditions, the reliability and accuracy of information disclosed, especially by businesses, is of great importance to many individuals and organizations involved with the business, affecting the decision-making abilities of both business owners and managers, as well as third parties. The sheer volume and complexity of accounting information, the limited accessibility of information to external stakeholders and the potential for misleading information necessitate auditing of information disclosed by the business. Information obtained from an impartial audit, ensuring its integrity and accuracy, can be considered reliable (Doğan & Hilal, 2019:30).

This study, which employs a descriptive analysis method, focuses on the concept of labor inspection, explaining the ILO's assessments of its functions and its functions themselves. Subsequently, the labor inspection systems in Türkiye and the duties of labor inspection units are discussed.

LABOUR INSPECTION ACCORDING TO THE INTERNATIONAL LABOUR ORGANIZATION

Labour inspection has been one of the priorities of the International Labour Organization (ILO) since its establishment. The issue of labour inspection is addressed in one of the general principles of Chapter XIII of the Treaty of Versailles, the founding treaty of the ILO, which states that " Each State shall establish a system of inspection in which women participate in order to ensure the implementation of laws and regulations aimed at the protection of workers ". It also refers to the ILO's obligation to support member states in strengthening their labour inspection systems (ILO, 2022:2).

The 2008 ILO Declaration on Social Justice for a Fair Globalization emphasized the need for the ILO to invest in the capacity of its member states to contribute to achieving ILO objectives by strengthening their labor inspection systems. This Declaration recognized the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) as among the most relevant standard-setting regulations. The 2019 ILO Centennial Declaration on the Future of Work and the 2021 Global Call to Action for an Inclusive, Sustainable, Resilient and People-Centered Recovery after the Covid-19 Crisis both stressed the importance of strengthening labour relations institutions, particularly labour administration and labour inspection agencies, to ensure adequate protection for all workers (ILO, 2022:2).

Labor inspection is among the main tasks of publicly organized labor inspection units that ensure the implementation of labor legislation in workplaces. The primary role of labor inspection is to convince the tripartite structure consisting of workers, employers, and the state, through preventive, educational, and, when necessary, punitive measures, of the necessity of complying with labor laws and protecting their mutual interests in this regard. Inspection services are organized differently from country to country, and resource allocation also varies due to different levels of economic development, political systems, professional support, and different national priorities, etc. However, the functions of labor inspection services are generally similar worldwide and are structured in close accordance with the policies established in ILO Conventions (ILO, 2023).

In the world of work, labor inspection is the most important instrument of state presence and intervention to contribute to the design, promotion, and development of a culture of prevention that potentially encompasses all aspects within its jurisdiction. From this perspective, labor inspection primarily deals with industrial relations, wages, general working conditions, occupational health and safety, and issues related to employment and social security. Today, labor inspection units; In a challenging environment marked by significant changes in the organization of labor relations, social and political expectations, the use of technology, and the structure of work-related risk factors, parallel to industrial developments in the economic and social context, labor inspection services fulfill their duties. These services promote compliance with national legislation in areas such as occupational health and safety, working conditions, and other aspects of labor relations. Furthermore, these services help to increase the effectiveness of employment policies at the enterprise level, prevent conflict, and promote social peace (ILO, 2022).

Labour inspection, as a fundamental function of labour administration systems, plays a crucial role in the implementation of national labour policies, in providing employers and workers with information and advice on current labour legislation, and in ensuring its application. Conventions No. 81 and 129 are two of four governance conventions that provide an international legal framework and reference for the development of robust national labour inspection systems. The high number of States ratifying Convention No. 81 highlights the importance of this

public function for the effective implementation of national legislation and, indirectly, for the realization of international labour standards (ILO, 2022:2).

Functions of the System Labour Inspection According to the International Labour Organization

The functions of system of labor inspection are set out in Article 3 (1) of Convention No. 81 and Article 6 (1) Convention No. 129. It is defined in Article 6 (1) of the contract. According to the provisions of the said contracts (IALI, 2014);

- ✓ To ensure the enforcement, to the extent applicable by labor inspectors, of legal provisions relating to working conditions and the protection of workers during the time they are engaged in their work, such as provisions on working hours, wages, safety, health and welfare, child and youth employment and other related matters;
- ✓ To provide technical information and advice to workers and employers regarding the most effective ways to comply with legal regulations (most effective means of complying with the legal provisions);
- ✓ -Reporting any wrongdoing or abuse not specifically covered by current legal provisions to the competent authority (to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions).
- ✓ -The task of providing information and advice aims to ensure the effective implementation of laws and regulations and to improve working conditions by providing technical advice to workers, employers and their organizations on existing best practices.

As part of their adaptation and modernization efforts, labor inspection systems should leverage advances in information and communication technologies to improve the scope, accessibility, impact, and efficiency of the services they provide to workers and employers. The use of information technology systems (e.g., electronic notification systems, electronic documents, inter-agency data sharing) should reduce administrative burden and support the work of labor inspection boards.

Scope of Labour Inspection According to the International Labour Organization

Article 27 of Convention No. 81, the scope of compliance audit in labor inspections covers all aspects of the relevant legislation relating to working conditions and workers' protection, as defined in national legislation. The issues covered by labor inspections within this scope are as follows (ILO, 2017):

- (a) occupational health and safety issues and social services, including investigation and prevention of work-related accidents and illnesses,
- (b) prevention and elimination of violence and harassment in working life,
- (c) fees,
- (d) working hours and holidays and rest days, including overtime, sick leave and maternity leave,
- (e) fundamental labor rights and principles,
- (f) employment relationship,
- (g) social security registration and contributions,
- (h) employment of women, children and young people and other workers with special needs (including individuals with disabilities),
- (i) informal economy and informal employment.

It is vital to provide labor inspection boards with the necessary data for identifying high-risk activities and worker groups, and to establish formal mechanisms (e.g., institutional memoranda of understanding and/or other agreements, or participation in interagency committees or working groups that allow for effective information sharing between ministries, other competent authorities, social partners, and research institutes) to investigate the causes of occupational accidents and diseases in the organizations and businesses subject to inspection. Preventive controls of new establishments, facilities, substances and processes are carried out in accordance with national legislation and Article 81. According to Article 27 of Convention No.81, the focus should be on situations where the activities of the facilities in question are considered to pose a serious risk to the health, safety or physical integrity of workers and other persons involved. In some cases, the task of regulating hazardous substances and activities may fall to other state authorities who utilize regulators specializing in specific sectors, such as nuclear

materials or hazardous chemicals. In such cases, occupational health and safety regulators should cooperate with these specialist regulators, define and respect their different roles and responsibilities (ILO, 2017).

LABOR INSPECTION IN TURKISH LEGISLATION

The concept of labor inspection can be defined in both a narrow and a broad sense in Turkish labor law literature. In a narrow sense, labor inspection is "the monitoring by administrative inspection units, responsible for labor inspection, of whether labor legislation is being applied within working life. "In a broader sense, labor inspection can be defined as " the administrative inspection of working life as well as the judicial review of disputes" (İzveren, 1974:441).

The concept of labor inspection is not defined in detail in the Labor Law No. 4857. The concept of labor inspection is similarly defined in Article 4/c of the Regulation on Labor Inspection, published in the Official Gazette dated 19.04.2022-31814, and in the Regulation on the Labor Inspection Board of the Ministry of Labor and Social Security, published in the Official Gazette dated 31.10.2012-28453. According to both regulations, labor inspection is defined as "inspection activities, including research, examination, investigation, and auditing on behalf of the State, related to the implementation of all legislative provisions concerning working conditions and the working environment, such as working hours, wages, occupational health and safety, worker welfare, employment of children and young people, informal employment, unemployment, employment, and labor market practices, as well as other inspection activities assigned by legislation".

The Importance of Labor Inspection

The legal significance

While labor law, as a general principle, primarily aims to protect and improve the social and economic status of the worker, its ultimate goal can be said to be the protection of the public interest and social peace as a whole. The main purpose of labor law is to protect the interests of society. Labor inspection is one of the methods by which the state intervenes in working life in the name of public interest. On the one hand, the state intervenes in working life by making legal regulations regarding labor and social security legislation to regulate working life, and on the other hand, by monitoring whether legal regulations are complied with (Esener, 1973:34-35). Although the state's interventions to regulate working life are primarily made with the idea of protecting the personality and labor of the worker, the main purpose of these interventions is to protect the social public order. The state realizes the idea of public interest by regulating working life and ensuring the implementation of regulations through labor inspection (Tunçomağ, 1986:15).

Through labor inspections, the state, in addition to protecting workers, strives to maintain social order and serve the public interest. This ensures the preservation of social peace and the rule of law. If working life is not supervised by inspection units representing public authority, labor peace between workers and employers can be disrupted, social relations can be deeply shaken, and legal regulations may become ineffective.

The socio-economic importance

The primary aim of labor law is to protect the worker. Effective labor inspections will prevent employers from generally acting negatively regarding the legal rights of workers as stipulated in labor and social security legislation (for example, employing uninsured workers, paying severance and notice pay, paying worker wages, and matters related to occupational health and safety). For employers, labor inspections are of great importance, especially considering that competition is a determining factor in today's global economies, in terms of eliminating unfair competition. The most significant difference between employers who comply with labor and social security legislation and those who do not is that those who comply face greater financial burdens. Employers who comply with the legislation face higher production costs, while those who do not comply avoid financial burdens by not fulfilling their legal obligations. If this situation leads to increased unfair competition over time, compliant employers will eventually rebel and stop complying as well. The result will be a disruption of labor peace, workers will suffer, and the state will incur significant revenue losses. The failure to implement legislation concerning occupational health and safety, which holds a significant place in labor inspections, will lead to an increase in work accidents or occupational diseases, resulting in significant losses for both workers and employers. Employers will face numerous problems due to the loss of their workforce and may also be in a difficult position due to compensation lawsuits. A decrease in the workforce will also lead to decreased labor productivity and increased unemployment costs for the national economy. Ultimately, both production and government revenues will decrease (Güzel & Okur, 2002:184-188; Ofluoğlu, 1997:109).

PRINCIPLES OF LABOR INSPECTION



According to Article 91 of the Labor Law No. 4857, "Labor Inspectors are tasked with monitoring, supervising, and inspecting the implementation of legislation related to working life on behalf of the state". As can be understood from the provision of the article, the creation and supervision of the implementation of legislation related to labor inspection is primarily a duty of the state. According to Article 59/3 of the Social Security and General Health Insurance Law No. 5510, "Inspectors and auditors of the Social Security Institution also possess the inspection, control, and auditing authority specified in the Labor Law No. 4857." Considering the provisions of both articles, the principles of the labor inspection system that can be determined are explained below.

The Principle of control by a central authority

Article 4 of the International Labour Convention No. 81 concerning Labour Inspection and Article 7 of the International Labour Convention No. 129 concerning Agricultural Labour Inspection stipulate that labour inspection should be organized under the control of a central authority. Convention No. 129 also specifies different organizational possibilities for implementing the principle of central authority control. These possibilities relate to the separation of the areas of responsibility of the inspection boards to be established (ILO, 1986:87-88). In practice, due to the difficulty of labour inspection and the expansion of its scope over time, labour inspection is generally carried out through "inspection systems established in the form of separate inspection organizations under the administration of a central authority, or in the form of an inspection organization attached to a single central authority, or in the form of various inspection organizations attached to several authorities " (Bıyıklı, 1983:301). The most important aim in establishing different systems is to ensure effectiveness in labor inspection (ILO, 1986:89).

There are three main reasons for consolidating labor inspections into a single center. Firstly, it provides a partial solution to the problem of inspector shortages; secondly, it reduces the stress that may arise for employers; and thirdly, it facilitates the planning of labor inspections and the flow of information. This prevents duplicate inspections and reduces inspection costs (ILO, 2011: 9-10).

In Türkiye, the inspection of working life is carried out through an inspection system established by various inspection units such as general directorates, presidencies, or ministries attached to many authorities. However, each unit conducts inspections related to the issues within its own area of responsibility (Bıyıklı, 1985:126).

Privacy policy

Confidential, sudden, and unannounced conduct of labor inspections is a requirement of the inspection process. The confidentiality of labor inspections includes keeping all workplace secrets confidential and not disclosing the identities of those who provide statements and information for the inspection, as well as those who report or complain (Süzek, 2012:883).

Article 12 of the ILO Convention No. 81 states that " inspectors should be able to enter workplaces for inspection freely and without prior notice at any time of day or night ". Another important aspect of labor inspections is " keeping confidential the trade secrets, economic and commercial status of both the employer and the workplace". During an inspection, the inspector examines all records and documents related to the workplace, obtaining a great deal of confidential and private information. Keeping this information confidential is crucial for both the employer's commercial reputation and the competitive conditions with other companies. In this regard, according to Article 15/b of ILO Convention No. 81, "inspectors and other competent bodies conducting labor inspections may not disclose what they have observed regarding the manufacturing and production conditions, techniques and secrets of workplaces, their commercial and economic status; the results of analyses, examinations and inspections of samples of raw materials, tools, equipment, etc. taken from workplaces; unless it is necessary for the execution and completion of official procedures".

In this context, in Türkiye, Articles 15/2-c and 15/2/f of the SGK Guidance and Inspection Directorate Regulation stipulate that inspectors "cannot disclose the places they will inspect, the work they will do, and the confidential information and documents they obtain as a result of their duties, and that inspectors are obliged to keep confidential the matters they see and learn about the trade secrets, economic and commercial conditions of the employer and the workplace arising from their duties". As clearly understood from the provisions of the regulation, SGK inspectors are obliged to keep confidential the secrets and information related to the employer and the workplace, as well as the identities of those who give them statements and information, those who make complaints or reports, and the places they will inspect. In inspections based on reports and complaints , and in other types of inspections, the workplace is visited suddenly and without prior notice as required by the task (Bıyıklı, 1983:332). Proper investigation of the social security status of employees working at a workplace, and a thorough inquiry into

the allegations or complaints made by informants , can only be achieved through surprise and unannounced visits to the workplace.

Furthermore, according to Articles 12/1-g and 12/1-ğ of the Regulation on the Board of Labor Inspections, Labor Inspectors "cannot disclose what they see and learn about the construction and production conditions of workplaces, the trade secrets and techniques of the employer and workplace, their economic and commercial situations, and the results of the analysis, examination and inspection of raw materials, materials and similar samples taken from workplaces, unless it is necessary for the conduct and completion of official business" and "cannot disclose the identities of complainants and/or those who report and those who provide information and statements to them, except in cases where it is not possible to perform the duty in any other way".

Principle of Cooperation

Cooperation in labor inspection refers to both the cooperation within the inspection unit itself and the cooperation between it and other public and private organizations (ILO, 2022). The Labor Inspectors of the Labor Inspection Board of the Ministry of Labor and Social Security in Türkiye, established for labor inspection, are the main unit conducting labor inspections. Additionally, Social Security Institution (SGK) inspectors and auditors also conduct labor inspections to some extent from the perspective of social security legislation.

In labor inspections, which are a public service, cooperation saves time and effort by preventing different public institutions and organizations from conducting inspections on the same subject. Furthermore, it allows for the most effective and efficient inspections by sharing different information and experiences among different inspection units. It also provides a single source of statistical information regarding practices across the entire country. The necessity of coordination and cooperation between different inspection units or institutions with different responsibilities in labor inspection is also stated in Article 5/a of ILO Convention No. 81 (ILO, 1986: 94-95).

Regulations have been put in place in Türkiye to ensure cooperation among inspection units regarding labor inspections. Article 14 of the Unemployment Insurance Law No. 4447 grants " the authority and duty to conduct labor inspections to determine whether employees working in workplaces are insured, in accordance with their own regulations, to the inspection personnel of departments included in the general budget and administrations with supplementary budgets". Furthermore, Article 59 of Law No. 5510, in accordance with the Law No. 3568 on Independent Accounting, Independent Financial Consulting, and Certified Public Accounting, grants " authorized independent financial consultants and certified public accountants the authority to determine whether the labor reported to the institution is sufficient in tendered projects and private building construction projects".

According to Article 5 of the Regulation on Determinations to be Made by Inspection Personnel of Public Administrations, published in the Official Gazette dated 27.09.2008-27010, "inspection personnel of public administrations, during all investigations, inspections, and examinations they conduct in workplaces in accordance with their own legislation, must determine whether the employees working in the workplace are insured under Law No. 5510 and report to the Social Security Institution (SGK) within one month at the latest any findings regarding those working without insurance and any underreporting of the earnings subject to premiums or the number of insured days of those considered insured under Law No. 5510. If it is determined that the notification of those working without insurance has not been made to the SGK , or that the number of insured days and the amounts of earnings subject to premiums have been underreported, a factual determination report or a record review report must be prepared and submitted to the relevant unit of the SGK"

The principle of inspection without interruption of work

Labor inspection means monitoring and examining the implementation of labor legislation, social security legislation, and occupational health and safety legislation. Inspectors must conduct inspections in a way that does not disrupt the normal functioning of the workplace (Çenberci,1986:1159). In this context, the most important aspect of obtaining the desired results and ensuring the effectiveness of labor inspections is conducting inspections during production in workplaces. This requirement is even more important in the field of occupational health and safety (Bıyıklı, 1984:725-726).

The principle of on-site inspection

The concept of on-site inspection means "the inspector conducting the inspection by going to the workplace" (Bıyıklı,1984,727). From this perspective, it is mandatory for Labor Inspectors, Social Security Institution Inspectors, and especially Social Security Institution auditors, to conduct their inspections at the workplace in order to identify those actually working there and to investigate other matters related to the inspection. For a healthy and effective social security inspection, it is generally important that the workplace is visited suddenly and without

notice, and that the persons whose statements are to be taken (injured parties or witnesses), the employer, or the employer's representative are present at the workplace. Furthermore, if a suitable location is available, workplace records and documents can be examined at the workplace. According to Article 13/g of the Social Security Institution Guidance and Inspection Directorate Regulation, "the determination of a suitable location for the inspection is left to the discretion of the Social Security Inspector".

LABOR INSPECTION INSTITUTION IN TÜRKİYE

In Türkiye, labor inspections are carried out by two official institutions: the Social Security Institution and the Ministry of Labor and Social Security.

Inspection Units of The Social Security Institutions

The purpose of social security inspections is to register those working without insurance in workplaces and to ensure that the insurance premiums or number of days of insured individuals whose contributions are underreported are completed. In this way, unregistered employment is reduced, registered employment is expanded, and tax and premium evasion is prevented. Furthermore, as a result of inspections, those who unjustly benefit from social security benefits and healthcare institutions that cause the Social Security Institution (SGK) to incur unnecessary healthcare expenses are identified (Özsuca and Gökbayrak, 2012:73).

Inspections conducted by the Social Security Institution (SGK) are carried out by SGK inspectors, who constitute the central inspection unit, and auditors, who constitute the local inspection unit.

Inspection Units of the Social Security Institution

Inspectors

Of the Social Security Institution (SGK) General Directorate, the Bağ-Kur General Directorate, and the Pension Fund General Directorate, which provide social security services, under the Social Security Institution Law No. 5502, which came into force in 2006, the Inspection Boards of the Turkish Republic Pension Fund General Directorate, the Bağ-Kur General Directorate Inspection Board, the Social Security Institution Presidency Inspection Board, and the Social Security Institution Presidency Insurance Inspection Board, which carry out inspection services within these social security institutions, were also merged into a single inspection and service unit under the name of the Social Security Institution Guidance and Inspection Directorate. As a result of the merger of the inspection boards, inspections in social security were brought together within a single main service unit, thus aiming to create an equal and fair inspection system. After 2006, the Guidance and Inspection Directorate was organized as the main inspection unit established to conduct internal and external inspections together with the merger of the four inspection boards (SGK, 2008:1). The SGK Guidance and Inspection Directorate; Established in accordance with Articles 17 and 30 of Law No. 5502, the Guidance and Inspection Directorate is the main service unit directly subordinate to and acting on behalf of the President of the SGK. It consists of a director, chief inspectors, inspectors, and assistant inspectors, and is tasked with conducting both internal and external inspections. Within the framework of a citizen-oriented public administration approach, the Guidance and Inspection Directorate is the first inspection unit established in Türkiye with the name and function of "guidance" (SGK, 2008:3).

Social Security Inspectorate

It was established in accordance with Article 1 of the Regulation on the Establishment of Social Security Institution Insurance Inspection Services and the Duties and Powers of Insurance Inspectors and Control Officers, published in the Official Gazette dated 22.05.1973-15243 , which states: " In the branch directorates of the Social Security Institution's provincial organization, there shall be an insurance inspection service consisting of a sufficient number of insurance inspectors, inspector candidates, control officers, as well as clerks and typists, under the management of a chief ... " Thus, the institution of control officers was established alongside and separately from the insurance inspector.

Social security inspectors, who started working with the title of Social Security Inspector as of October 14 , 2011, pursuant to Law No. 6111 on the Restructuring of Certain Receivables and Amendments to the Social Security and General Health Insurance Law and Other Laws and Decree Laws, published in the 1st Supplementary Official Gazette dated February 25, 2011, and numbered 27857, perform the duties assigned by the provincial social security director or the deputy provincial director appointed by the provincial director in the regional (local) organization of the Social Security Institution (SGK) .

Duties and Powers of the Guidance and Inspection Directorate of the Social Security Institution

The inspection and audit services of the Guidance and Inspection Directorate, established by Law No. 5502 which came into force in 2006, can be grouped under the following headings (SGK, 2008:66-73):

- ✓ Social Security Inspections Directed Outside the Institution,
- ✓ Health Sector Inspections,
- ✓ Internal Inspections,
- ✓ Guidance Activities,
- ✓ Reconciliation Activities.

These inspections are divided into two categories: planned and unplanned inspections. Planned inspections include inspections of the institution's central and regional units, minimum wage checks related to permanent workplaces, guidance activities, and health sector inspections, all conducted according to Annual Work Plans and Programs. Planned inspections mainly involve sectoral minimum wage checks based on risk analysis. These inspections may be in the insurance or health sectors. Minimum wage checks, which fall under the heading of planned inspections, are carried out within the framework of inspection guides prepared by the Guidance and Inspection Directorate for sectors or sub-sectors and distributed to inspectors (SGK, 2008; 7-8).

Unplanned inspections include inspections related to reports and complaints, examinations of private building constructions and tendered projects, and investigations into work accidents and occupational diseases (SGK; 2008; 123-127).

Official Gazette dated 10.08.2007-26609 (Arıcı, 2015;177-179):

- a) To supervise the implementation of social security provisions with an approach that prioritizes prevention of irregularities, education, and guidance.
- b) To prevent unregistered employment, to combat social security abuses, to conduct inspections based on sectoral analyses for this purpose, and to take action on these issues.
- c) To analyze premium payers by groups and sectors, and to prioritize the inspection of risky sectors by classifying the sectors to be audited according to risk assessment criteria to be determined for each year.
- c) To examine all records and documents related to their duties, to request and collect information from relevant parties, and to conduct inspections, examinations, and investigations in all institutions and organizations regarding the transactions of insured persons and general health insurance holders within the scope of social security legislation.
- d) To determine the minimum labor cost required for the execution of the work,
- e) When necessary, to identify situations that violate occupational health and safety regulations in workplaces in order to determine those responsible in investigations of work accidents and occupational diseases.
- f) To evaluate the results of reports prepared by inspectors throughout the year, to provide statistical information on the reports, and to present suggestions regarding practical problems and necessary legislative changes.
- g) To conduct inspections, investigations, and inquiries into the administrative, financial, and legal transactions of the institution's central and regional organizations and personnel; and to conduct investigations and inquiries into natural and legal persons who have entered into contracts with the institution, based on the authority granted by social security legislation.
- g) To develop methods and techniques for inspections to be carried out by inspectors, to ensure the establishment of standards and principles, to prepare inspection guides, to take measures to increase the effectiveness and efficiency of inspections, and to present opinions and suggestions on this matter.
- h) To conduct reviews and research to improve and enhance the effectiveness of institutional services, increase efficiency and quality, ensure the institution operates in accordance with legislation, plans, programs and projects, and make new arrangements if deficiencies are identified, and to prepare and submit the necessary opinions and suggestions to the President .

As is clearly evident, SGK Inspectors are endowed with very important and influential duties and powers, both within the administrative units of SSI and in working life.

Duties of Inspectors

According to Article 24 of the Social Security Inspectors Regulation published in the Official Gazette dated 26.05.2011-27945 , " inspectors and assistant inspectors perform their duties upon written order given by the provincial director or the deputy provincial director or center director assigned by him/her, along with the inspection justifications received from the social security center directorate."

The duties of the inspectors are as follows (Özsuca and Gökbayrak, 2012: 58-60):

- a) As a result of the examination, inspection and control to be carried out;
 - 1) To determine the current status of the workplace, including the nature and surface area of private building constructions, including those built without permits, and the levels, start and end dates of completed parts of unfinished constructions, in order to determine the structure, class and group of these buildings,
 - 2) Whether the workplace is operational and the accuracy of the information provided in the workplace registration,
 - 3) The nature of the work performed in the workplace and whether there have been any changes in the work performed,
 - 4) Whether the conditions for succession to premium debts are met in the event of the transfer, assignment, merger with another workplace, or acquisition of the workplace.
 - 5) Whether the insured persons and those who should be insured have been reported to the Social Security Institution,
 - 6) In the law, the start and end dates of insurance coverage for insured individuals are linked to their tax liability, registration, and record-keeping procedures in the relevant institutions and organizations.
 - 7) The insured persons' identity information, working hours, wages and earnings subject to premiums,
 - 8) If it is determined whether the insured person whose termination of employment has been reported is actually continuing to work, and if it is found that the information in the monthly premium and service certificate and the insured person's account slip differs, the date of termination of employment of the insured person shall be determined.
 - 9) Whether insured persons/participants will benefit from actual service or notional service application, detection ,
 - b) Examination of the books and documents of workplaces and employers,
 - c) If the addresses of employers, intermediaries, employers who have transferred insured persons, insured persons, and other individuals or organizations cannot be determined as a result of correspondence conducted by the relevant units of the institution, the necessary investigations shall be carried out.
 - c) Investigating whether the relevant parties have any attachable assets for the purpose of collecting the institution's receivables.
 - d) If there is a discrepancy between the insured person's notification and the employer's/relevant institutions and organizations' notification on the insured person's start date, the reason for the discrepancy must be determined.
 - e) If it is possible to determine whether the notifications regarding unregistered accruals belong to the claimant based on the inspection results, the necessary information and documents should be clearly stated and investigated.
 - f) If necessary, an investigation should be conducted to determine whether the insured person provided for the livelihood of their parents during their lifetime, if the insured person died before August 6, 2003.
 - g) Investigating whether insured persons and those receiving income or pensions from the Institution have dependents they are obligated to support, and whether these dependents are entitled to health benefits.
 - g) Determining whether the insured person or other beneficiaries meet or continue to meet the conditions for receiving income or monthly payments,
 - h) Investigation of work accidents and occupational diseases resulting in death and disability, examination and/or investigation of work accidents and occupational diseases other than those resulting in death and disability, and investigation of illness claims, if deemed appropriate by the President or the General Manager to whom he/she has delegated authority.

- i) The provincial director shall conduct inspections, assessments, audits, and screenings of healthcare providers such as pharmacies, hospitals, medical supply and therapeutic product providers, and optician shops, to ensure that their operations and transactions related to insured individuals comply with the legislation, contracts, and protocols signed with the Institution within the scope of social security legislation.
- i) Checking and examining whether the payment documents and their attachments related to the health services provided by health service providers are prepared in accordance with the relevant legislation and the provisions of the contract concluded between the Institution and the health service providers.
- j) During inspections of healthcare providers, requesting the submission of all information, documents, and records related to the subject of the inspection, examining them, and obtaining certified copies and photocopies when necessary.
- k) Preparation of minutes or reports as a result of inspections of healthcare providers,
- l) Providing information to employers, insured persons, and other third parties regarding their rights and obligations in relation to the implementation of social security legislation.
- m) Conducting similar investigations, research, determinations, inspections and screenings to be ordered by the provincial director or the deputy provincial director he/she designates, their duties in a report.

Finally, the Social Security Inspectors' Inspection Standards Guide establishes the standards for inspections to be carried out by inspectors.

Labor Inspectors Unit of the Ministry of Labor and Social Security

In 1979, when the Presidency of the Labor Inspection Board was established within the Ministry of Labor, the Occupational Safety Inspectorate and the Labor Inspectorate units were merged under the Presidency of the Labor Inspection Board as Labor Inspectors, thus achieving a centralized inspection structure. In 1995, Labor Inspectors were given a status directly reporting to the Minister (Aktay, 2019: 98). The Ministry's Guidance and Inspection Unit, or the Labor Inspection Board as it was previously called, currently conducts inspection activities within the scope of the Labor Inspection Board Regulation of the Ministry of Labor and Social Security and the Regulation on Labor Inspection. Article 8 of the Labor Inspection Board Regulation regulates the duties and powers of the Guidance and Inspection Presidency as follows:

- ✓ To monitor the implementation of legislation relating to working life, including tasks assigned by special laws, and to conduct examinations, investigations and inspections related thereto."
- ✓ To inspect workplaces within the scope of Law No. 4447 on Employment and Social Security and Law No. 4904 on the Turkish Employment Agency.
- ✓ Combating informal employment,
- ✓ To inspect the activities of institutions and organizations affiliated with and related to the Ministry, as well as the public officials working there, including inspectors.
- ✓ Based analyses related to the area of responsibility, and to determine the workplaces to be inspected as a priority each year.
- ✓ To improve and provide opinions and suggestions for ensuring inspection activities related to working life,
- ✓ To provide opinions on how current technological, social and legislative changes in the field can be reflected in the laws.
- ✓ To make suggestions and proposals that will improve the well-being of workers in a way that will contribute to the labor market,
- ✓ To conduct legislative studies related to the field, identify deficiencies in the legislation as a result of inspections, and prepare a General Assessment Report on the necessary measures to be taken.
- ✓ To prepare the General Assessment Report of the Labour Inspection and send it to the Director-General of the International Labour Office.
- ✓ Collecting and evaluating statistics related to the inspections conducted.

The institution of the Labor Inspectorate is based on ILO Convention No. 81. In this respect, it is the only inspection group whose basis is an international convention. Labor inspectors are divided into two categories: social labor inspectors and technical labor inspectors. Technical labor inspectors conduct inspections related to occupational health and safety, while social labor inspectors conduct inspections regarding the execution of work (Şen, 2009:415).

According to Article 6 of the Regulation on Labor Inspection, the duties, powers, and responsibilities of Labor Inspectors are explained below. Accordingly;

- ✓ To carry out tasks related to labor inspections and send the reports prepared as a result of the work to DGI.
- ✓ To freely enter workplaces and conduct necessary investigations regarding labor legislation,
- ✓ To determine whether the required records are in place at the workplace.
- ✓ As part of the task, inviting relevant individuals to listen to their statements and provide their testimonies,
- ✓ To examine all kinds of books and documents belonging to workplaces, and to request these records.
- ✓ To conduct inspections related to occupational health and safety in the workplace and to record the findings.
- ✓ Even if not included in the inspection program, reporting observed hazards related to occupational health and safety in workplaces to DGI (Directorate of Guidance and Inspection) and conducting an inspection at the workplace,
- ✓ To perform duties related to work stoppages within the scope of the Occupational Health and Safety Law No. 6331.
- ✓ If any violations of regulations are identified regarding the age, gender, or health status of employees, a written request must be submitted to the local administrative authority to take action against these individuals.
- ✓ Sectoral inspections and make recommendations as part of the fight against informal employment.

Article 49 of the Maritime Labor Law states that "The monitoring, supervision, and inspections necessary to ensure the proper implementation of the provisions of this law shall be carried out by the Ministry of Labor. In this regard, the provisions of the Labor Law concerning the supervision and inspection of working life and the penal provisions of the same law related to these provisions shall apply." Similarly, Article 24 of the Press Labor Law states that "The monitoring, supervision, and inspections deemed necessary to ensure the orderly implementation of the provisions of this Law shall be carried out by the Ministry of Labor. In this regard, the provisions of the sixth chapter of the Labor Law No. 3008 concerning the supervision and inspection of working life and the penal provisions of the same law related to these provisions shall apply". Both refer to Articles 91 and 92 of the Labor Law No. 4857. Furthermore, according to Article 24 of the Occupational Health and Safety Law No. 6331 concerning inspections, "inspections regarding occupational health and safety shall be carried out by authorized Ministry officials, and the general provisions of the Labor Law specified therein shall be utilized".

CONCLUSION

In Türkiye, the authority to supervise labor relations is vested in the Ministry of Labor and Social Security. This authority belongs to the Labor Inspectors working within the Ministry's Guidance and Inspection Department. The SSI, an affiliated organization of the Ministry, conducts inspections related to the social security aspect of labor relations. These inspections are carried out by Social Security Institution Inspectors working within the Guidance and Inspection Department and Social Security Auditors working in provincial directorates. The fact that labor relations are supervised by three different units brings significant drawbacks. This situation negatively impacts the effectiveness of inspections and leads to inefficient efforts to combat unregistered employment. Therefore, consolidating these three units under a single umbrella appears to be the most appropriate solution. Furthermore, conducting many unnecessary inspection tasks, particularly those carried out by Social Security Auditors, through methods such as written correspondence would ensure a more effective inspection system.

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