



UNMIK/REG/2003/4
21 February 2003

REGULATION NO. 2003/4

**ON THE PROMULGATION OF
THE LAW ADOPTED BY THE ASSEMBLY OF KOSOVO
ON THE LABOUR INSPECTORATE OF KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

In conformity with sections 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government (UNMIK Regulation No. 2001/9),

Taking into account a communication from the President of the Assembly of Kosovo, dated 10 February 2003, concerning the Law on the Labour Inspectorate of Kosovo adopted by the Assembly of Kosovo on 19 December 2002,

Hereby promulgates the Law on the Labour Inspectorate of Kosovo (Law No. 2002/9) attached to the present Regulation, effective as of the date of signature.

Signed on this 21st day of February 2003.

Michael Steiner
Special Representative of the Secretary-General

LAW 2002/09

ON THE LABOR INSPECTORATE OF KOSOVO

The Assembly of Kosovo,

Taking into account UNMIK Regulation No. 2001/9 of 15 May 2001 on the Constitutional Framework for Provisional Self-Government in Kosovo,

Pursuant to UNMIK Regulation No. 2001/27 of 8 October 2001 on Essential Labor Law in Kosovo; and

Recognizing the need for the establishment of the Labor Inspection Authority as an important mechanism to control implementation of the Essential Labor Law and other protection labor rules,

Hereby adopts the following Law on the Labor Inspectorate of Kosovo:

Section 1

Scope of Labor Inspection

1.1 The Authority of Labor Inspection shall uniquely apply to all workplaces, irrespective of the applicable legal provisions relating to conditions of work, occupational safety and health protection of all workers in general.

1.2 This law shall not govern workplaces within UNMIK, and other offices or missions of foreign governments and international governmental or non-governmental organizations operating in Kosovo.

Section 2

FUNCTIONS OF LABOR INSPECTION

The Labor Inspection:

- (a) Insure implementation of the labor law, conditions of work and protection at work;
- (b) Provide technical information and advice to employers and employees on the most effective means of observing the legal provisions;
- (c) Notify the Minister of Labor and Social Welfare or other competent authorities on any deficiencies in the applicable law;
- (d) Supply information and advice to employers and employees and which would comply with the law and forewarn the competent authorities on any defects or abuses not covered by existing legal provisions;
- (e) Give advice on issues relating to labor law and protection of employees in a case or reorganization or restructuring of an enterprise.

Section 3

LABOR INSPECTION AUTHORITY

3.1 The Labor Inspection, as an executive authority, is formed by the Ministry of Labor and Social Welfare and shall be responsible to this Ministry about the coordination of executive activities related to the Labor Inspection in Kosovo.

3.2 The Labor Inspection Authority shall consist of the Chief Labor Inspector and labor inspectors who exercise their functions throughout Kosovo.

3.3 For the purpose of implementation of the law, in its activities the Labor Inspection Authority shall co-ordinate and co-operate with municipal governments, tax inspectors, health inspection and other relevant authorities as well as with Kosovo Police.

3.4 The Chief Labor Inspection shall be appointed by the Government upon the proposal of the Ministry of Labor and Social Welfare.

3.5 Municipal inspectors shall be appointed by the Municipal Assembly.

Section 4

CHIEF LABOR INSPECTOR

4.1 The Chief Labor Inspector shall be responsible for the management of the Labor Inspection Authority and implementation of the functions entrusted to him.

4.2 The Chief Labor Inspector shall supervise executions of decisions on violations relating to labor law, protection and safety work rules, and related sanctions taken pursuant to Section 25 of UNMIK Regulation No. 2001/27 on Essential Labor Law.

4.3 The Ministry of Labor and Social Welfare shall be responsible for the issuance of byelaws, which will contain detailed instructions in what cases he can:

- (a) Make written remarks to an employer regarding the irregularities found during the inspection;
- (b) Make decisions about fines laid out in section 25.2 and 25.3 of UNMIK Regulation 2001/27;
- (c) Justify precisely each specific fine imposed in cases of violation of UNMIK Regulation 2001/27;
- (d) Specify which of the fines is reasonable and proportionate to the committed violation. Labor inspectors cannot impose fines set out in sections 25.2 and 25.3, until a byelaw is issued in accordance with section 4.2 of this Law.

4.4 In his/her activity the Chief Labor Inspector shall be supported by his Deputy, responsible for legal, occupational safety, and health protection of employees.

4.5 The Chief Labor Inspector shall present an annual labor report to the Ministry of Labor and Social Welfare on the activities of the Labor Inspections Authority.

4.6 At the request of the Ministry of Labor and Social Welfare, the Chief Labor Inspector is obliged to present a periodical report on the activity of the Labor Inspection Authority.

Section 5 LABOR INSPECTORS

5.1 Labor inspectors shall perform functions of the Labor Inspection Authority set out in section 2.

5.2 Labor inspector possessing the proper identification documents are authorized:

- (a) To freely enter any workplace and employer's headquarters within the jurisdiction of their inspection, without prior notification;
- (b) To conduct any examinations, inspections and investigations considered to be necessary to ensure that provisions of law are effectively observed and, in particular to question, either alone or in the presence of witnesses, the employer or the staff about any matter relating to the enforcement of the law;
- (c) To inspect all books and documents that must be kept by the employer as prescribed by the labor law;
- (d) To take extracts from the books or documents;
- (e) To demand from the employer the posting of notices or documents that are required;
- (f) To take, for the purposes of analysis, samples of materials or substances used, and inform about this the employer or his/her representative.

5.3 During each inspection, the labor inspector must inform the employer or the representative of the employer of his/her presence, unless the labor inspector considers that doing so will prejudice the effectiveness of the inspection.

5.4 One or more employees employed by the relevant firm may accompany the labor inspector during the inspection.

5.5 In performing their duties, labor inspectors have the power:

- (a) To make observations to the employer or his representative and to the employees;
- (b) To issue written notice about irregularities found and to set the time limit within which they must be eliminated;
- (c) To note within an official report the non-observance or violation of certain legal provisions;
- (d) To order that immediate measures, including halting, production, be taken when they have every reason to believe or conclude that there is an immediate and serious danger to the health of or safety of the employees;

- (e) Section 5.5 item d) can be applied when the Ministry approves an additional normative act that prescribe concrete health, security and work standards;
- (f) Upon the instruction, regardless of whether, the inspector has found a violation of the law, he/she will submit to the employer the official report on the performed inspection, which should clearly identify the place where inspection done, the time period of inspection, the course of inspection, the name and surname of the labor inspector, listing also the names of persons present.

5.6 The labor inspector shall carry out the inspection in the place where death has been caused or serious injury to an employee or injury of two or more employees occurred or where a change in the workplace has taken place, which has endangered the lives of employees, immediately after receiving such notification from the employer, employees, police or physician who has administered first aid to the employee.

5.7 Labor inspectors cannot have any personal interest whatsoever in the enterprise within the jurisdiction of their inspection and are obliged to keep employer's official secrets.

5.8 Labor inspectors must keep the source of any complaint, referred to them, that was presented to them about any activity related to the violation of the law.

5.9 Upon the inspection, the labor inspector must have this law with himself, as well as UNMIK Regulation No. 2001/27. Every labor inspector shall provide each visited or inspected employer a copy of all such byelaws and additional acts in the languages requested by the employer.

Section 6 THE APPEALS PROCEDURE

6.1 An appeal may be filled against the decision of an inspector to the Law Inspection Authority within eight (8) days time limit, after the receipt of such a decision.

6.2 The Law Inspection Authority is obliged to review the appeal filed against the decision of a labor inspection within sixty (60) days time limit.

6.3 An administrative challenge can be made to the court of legal jurisdiction against the Labor Inspection Authority within thirty (30) days time limit.

6.4 An appeal filed against the decision of a labor inspector cannot stop its execution.

Section 7 IMPLEMENTATION

The Ministry of Labor and Social Welfare may issue other legal provisions in connection with the implementation of this Law.

Section 8 APPLICABLE LAW

The present Law shall supersede any provision in the applicable law which is inconsistent with it.

Section 9

ENTRY INTO FORCE

The present Law shall enter into force on 21 February 2003.