

Decision-making processes in complex environments: A focus on labor inspections in the construction industry

Abstract

The construction sector requires particular attention from labor inspectors as it is prone to phenomenon such as severe work accidents and social dumping. In industry field, site inspections are critical moments in the enforcement of labor laws. While conducting inspections, labor inspectors evaluate a wide range of situations and try to determine suitable outcomes. The sector's unpredictability drives them to permanently adapt to new situations and rely on their discretionary power, which has been described as “responsive regulation” in the literature (Van de Walle & Raaphorst, 2018). Our study focuses on inspectors' decision-making processes while conducting well-being and anti-fraud inspections in this particular sector. Drawing on 34 interviews with Belgian labor inspectors and experts, we identify five logics that help to make decisions and justify them afterward. These logics lay back on five inherent dimensions of inspectors' job: procedures, values, experience, relation to inspectees¹, and relation to peers. By referring to such logics during inspections, inspectors tend to privilege certain types of outcomes as they pursue their cases. Our contribution highlights a tension between regularization and legal proceedings in inspection work.

Key words: *Inspection – Work Regulation – Construction industry – Uncertainties - Strategies*

Introduction

The construction sector is frequently associated with a culture of “informality” regarding employment. This is partly due to the high occurrence of fraudulent practices in this sector (Fontaine & Weber, 2011, Philips & Bosch, 2002; Weil, 2009). Construction is often mentioned as a propitious field when studying phenomenon such as illegal posted work, undeclared work, or bogus self-employment (Behling & Harvey, 2015; Jounin, 2008 & 2015; Wagner, 2015). Construction processes are innately complex as they involves interdependencies between various stakeholders (Dubois & Gadde, 2002). The sector historically extensively relies on subcontracting (Eccles, 1981). As subcontracting progressively went global (due to the opening of the European market), new regulation issues such as *social dumping*² arise. The complex assemblies of (national and international) companies set a fertile ground for frauds.

In addition to social frauds, the sector is also renowned for its hazardousness and the high occurrence of accidents. The perpetual motion associated to construction sites generates numerous risks that increase both the likelihood and significance of accidents compared to other sectors (Dodier, 1986; Jounin, 2006 & 2015). In Belgium, construction in the 4th highest sector in terms

¹ Term we use to characterize workers (no distinction between employers and employees) who receive a visit from an inspection service.

² The term “social dumping” refers to the competition between the social protection systems of the European Union member states. More generally, it encompasses a wide range of fraudulent practices which allow the development of unfair competition and lead to violations of workers' rights (Slautsky, 2018)

of declared accidents and is in second place when it comes to deadly accidents³. In response to these problems of social frauds and work accidents, a vast legislation specific to the construction sector has been developed to complement the legislation already in place in Belgium.

To ensure that these laws are enforced in the field, the Belgian state relies on officials, commonly known as “labor inspectors”. They ensure law enforcement in the field by conducting site inspections (and endorse state repressive power). In Belgium, labor inspectors are endowed with statutory prerogatives⁴ that delineate their legal authority. Among their multiple competences is the right to warn and sanction⁵ faulty employers. As inspectors detain a repressive power, their arrival on site generates protective reactions (Dulong, 1991): employers tend to present themselves favorably (sometimes trying to hide certain details), while workers are usually not very helpful in inspectors’ efforts to ensure proper compliance with rules. This observation prompted Dodier (1986, p. 69) to describe inspectors as “ethnographers” who interact with “bad informers.” Inspectors also have to deal with organizational related constraints (e.g., political dependence of their inspectorates, lack of resources, cumbersome paperwork, etc.) and fieldwork related constraints (e.g., dangerous environments, type of activity, unpredictability, etc.) (Loyens, Schott & Steen, 2019).

As labor inspection is divided into multiple services in Belgium, we have decided to focus on well-being⁶ at work and anti-social fraud inspections. In light of the context presented above, we must say that these types of inspections are mainly conducted in the construction sector. The following question frames our research: *How do labor inspectors deal with the specific constraints of the construction sector to enforce proper compliance regarding safety and anti-fraud legislation?* In response to this question, we carried out 34 interviews and several observations within 3 inspection services in charge of fraud and well-being regulation. The aim of this study is twofold. From a theoretical perspective, we focus on inspectors’ decision-making processes in uncertain environments (such as construction sites). In this respect, our contribution draws on previous research on the importance of contexts during inspections (Van de Walle & Raaphorst, 2018). From a practical perspective, this research aims to discuss the regulation of two pregnant issues in the construction sector (work accidents and social frauds), which are often attributed to regulatory failures.

We treat the above question into four main sections. The first is devoted to a review of the literature. This review introduces recent works on regulation issues in the construction sector as well as studies on labor inspection. The second section itemize our research methodology. The third section outlines our analyses and results. The fourth section is a discussion that seeks to address the real effects of inspections on the construction industry (regarding social fraud and security issues).

³ According to “Fedris”, the Belgian Federal Agency for Professional Risks (Activity report of 2019)

⁴ Under the Belgian Social Penal Code.

⁵ They do it through administrative fines (that are handled within the administration) or subpoenas that are referred to courts (Clesse, 2009; Driesse, 2017)

⁶ The purpose of well-being inspections is to ensure that workers execute their tasks safely, according to the various legislation.

1. Literature review

1.1. Social fraud and safety regulations in the construction sector

From a strictly legal standpoint, the construction sector is at a crossroads of disciplines (Kohl, 2011). While this article focuses on inspectors' practices, its purpose is not to question a particular discipline of law, but rather to identify the “normative phenomenon”, which is multidisciplinary in essence (Willemez, 2017). We thus consider that “the state does not have a monopoly on the production of rules; it is in the hands of a number of other social groups”⁷ (Bonafé-Schmitt, 1994, p.339). If the state sets a legal framework, sociologists have demonstrated that actors negotiate rules in the field (Willemez, 2017). Local contexts thus play a key role in the implementation of rules. The construction sector is particularly interesting to study as it is characterized by many uncertainties and interdependencies (Dubois & Gadde, 2002). Construction sites are considered as dynamic situations, where the regulation is constantly evolving (Forrière et al., 2011). In addition, construction activities involve many stakeholders, which multiplies interactions and interdependencies. Social frauds and safety regulations in such sector are good examples of re-appropriations of rules in situ. The first part of this literature review seeks to characterize regulation issues regarding safety and social fraud in the construction industry.

The regulation of social fraud in the construction sector (with a focus on social dumping)

As we have previously mentioned, the term “social fraud” gathers a collection of phenomena that are widespread in the construction sector. Undeclared work for instance has been tackled by C. Williams in several studies where he advocates for a progressive formalization of undeclared work through state interventions (2007, 2011). Bogus self-employment is another major employment issue in the construction industry that can lead to a “degenerative competition” (Behling & Harvey, 2015). Such practices tend to undermine workers' rights and arise a series of questions regarding regulation and the role of the state.

Another widespread practice in construction is *social dumping*, which can be defined as a strategy to take advantage of the differences between national social security law systems that coexist within the European internal market (Slautsky, 2018). It generally works as follows: workers are posted in foreign countries but remain covered by the social security system of their home country. Although there is a legal framework for this practice, it is clear that it leads to a whole series of illegal practices. Several scholars consider that *social dumping* include all fraudulent practices that contribute to minimizing a company's payroll and operating costs, which allow the development of an unfair competition and which lead to violations of workers' rights.

In Belgium, social fraud and social dumping in the construction industry have also been studied. These works include Xhauflair, Deflandre & De Schamphelre's article (2006) on the evolution of social dialogue in the construction industry. Other authors such as De Wispelaere & Pacolet (2016, 2017) have produced several reports on the impacts of intra-European posting on the Belgian construction sectors (mainly with quantitative approaches). E. Slautsky (2018) argues that public procurement is increasingly used to curb social fraud and promote better working conditions (through social clauses). A more recent work by De Wispelaere & Gillis (2020) shows the influence

⁷ Our translation.

of the COVID-19 pandemic on the fight against social fraud. Authors argue that fraud is anti-cyclic, which means that it is prone to increase in a period of recession. De Wispelaere & Gillis (2020) therefore call for a firm control by the state of such phenomenon in this period of pandemic.

While many authors agree that such practices induce many regulation issues, few address the problems that result for regulators and workers in charge of curbing such phenomenon (including labor inspectors). The multiplication of social fraud requires adaptations from labor inspectors who must reorganize their activities in response to these “new” types of fraud.

The regulation of safety at work in the construction sector

Safety is another theme that is steadily investigated in the literature dealing with the construction sector. Accidents are particularly frequent in construction sites; with certain types (such as falls from heights), being largely dominant compared to other sectors (Winge & Albrechtsen, 2018). This reality is partly due to inherent risks of production processes, intensity of work, and financial (and temporal) costs of implementing safety measures in competitive markets (Sousa, Almeida & Dias, 2014; Yilmaz & Celebi, 2015). In spite of these yet important observations, it is necessary to point out that safety has progressed in that many countries on two particular aspects: technology and legislation. In Belgium, this evolution is reflected in a law on the well-being of workers from 1996 and the appearance of a “wellbeing at work” code in 2017. Well-being at work has gradually shifted from a safety logic to a risk prevention logic (Omnes, 2009). This evolution has been accompanied by an improvement in the technical protection instruments (Lingard, 2013).

In response to these legislative evolutions, inspection services in charge of monitoring safety and well-being at work have been restructured. They have moved towards more proactive forms of control where the obligation of means (to do everything possible to avoid accidents) has been transformed into an obligation of results (accidents must be prevented at all costs). This evolution has had a huge impact on inspectors’ activities.

1.2. Inspectors as “street-level bureaucrats”

Some of the previously cited research raise the question of the role of the state regarding the regulation of employment and well-being at work in the construction sector. In the years 1970s in several western European countries, the shift from welfare states to an active social states has emphasized their repressive role (Matagne, 2001). Stated firmly grasped issues such as social fraud or well-being at work. This switch was reflected in labor inspection services, which were widely reformed and reorganized in many European countries (Dubois, 1999, Von Richthofen, 2002). In Belgium, the last major restructuration of inspection services happened in 2017, when the Social Inspection (SI) merged with the National Social Security Office (NSSO). This merger has been documented in the work of Loyens (2017). Our study draws upon this literature to interpret the practices of inspectors, as they are at the front line of rules enforcement in the field.

“Inspectors traditionally represented the hard hand of the state. They embody a powerful government that has the power to enforce rules and levy fines” (Van de Walle & Raaphorst, 2018, p.2). This extract shows that inspectors hold the legal authority delegated by the state. At the same time, they are also expected to educate and advise workers and employers (about the various legislation), as they are representatives of public values (Loyens, Schott & Steen, 2019). Inspectors

“are situated as relays and brokers of policy standing, in contact with both the political arena and practice arenas” (Lindgren & Rönnerberg, 2017, p. 159). In addition to embodying public values and repressive power, inspectors are state officials with annual objectives. They are thus constantly facing alternatives between educating, prosecuting, or focusing on inspections’ financial incomes. In addition to this ambiguous position, inspectors operate in a variety of sector. They often have to deal with limited information, contradictions, and unpredictability. The specific nature of the inspected sector can complicate inspectors’ diagnosis during inspections (Tiano, 2003).

Inspectors operates as mediaters between legislation and inspectees (Hjörne et al. 2010). Faced with a variety of situations, they are often left alone with their own discretion. Van de Walle & Raaphorst (2018) considered them as a perfect example of “street-level bureaucrats”. Indeed, inspectors are individuals who belong to a public service are endowed with a certain discretion in exercising authority (Lipsky, 2010). According to Lipsky, “street-level bureaucrats are policymakers in their own right [...] with strong discretion and autonomy in determining the nature, amount, and quality of benefits and sanctions provided by their agencies (Lipsky, 2010, p 13). “Street-level bureaucracy” is a concept that also recognize that there is a certain level of uncertainty in street-level work (e.g., Lipsky 1980/2010; Maynard-Moody and Musheno, 2003).

The concept of street-level bureaucracy has been used extensively to study the work of inspectors. In addition to the collective book coordinated by Van de Walle & Raaphorst (2018), we can mention Kim Loyens’s work on labor inspectors in Belgium. Her research specifies that elements such as inspectors’ professional role, inspectorates’ cultures, or inspected companies are also to take into account when studying labor inspectors (Loyens, Schott & Steen, 2019; Loyens & Maesschalck, 2010). Another central contribution is the one of Hupe *et al.* (2015, p.16) who stated that street-level bureaucrats have three main characteristics: discretion, a function of policy co-makers, and “a certain craftsmanship in fulfilling their task”. This last point is particularly investigated in our research as we look at how labor inspectors develop strategies to deal with the specific uncertainties of the construction sector.

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The concept of enforcement is central in this literature about inspectors. Several scholars use the term “enforcement style” to characterize “the day-to-day interactions of inspectors when dealing with representatives of regulated entities” (Maynard-Moody and Musheno, 2003, p. 119). Van de Walle & Raaphorst (2018, p.2) distinguish the term “inspection” and “regulation”. According to them, “inspection refers to the street-level activity, the enforcement work, and the regulatory work

[refers to] activities focused on setting standards”. The main activity of interest in this article is enforcement, as we look at inspectors’ enforcement strategies when conducting inspections within the construction sector. Some works on enforcement have gone further to show the limits of discretion power. Raaphorst & Groeneveld (2018) for instance discuss the implications of the reintroduction of “command and control mechanisms” within inspectors’ activities (2018).

Van de Walle & Raaphorst (2018) argue that inspectors face with three levels of uncertainty when conducting inspections. These three levels can be considered as the three key steps in their decision-making process. The first level concerns the collect of information, as inspectors must deal with incomplete or ambiguous information. The second level relates to interpretation (how to interpret information in context). This uncertainty refers to the particularity of the context of the inspection. The third level of uncertainty is linked to the action taken (the decision itself). While deciding an outcome, inspectors seek to maintain control on their interactions with employers. They must negotiate (sometimes with non-cooperating employers) and deal with inspectees’ reactions. Van de Walle & Raaphorst’s argue that these three levels of uncertainty lead to a dilemma between the desire to standardize practices and the desire to use discretion. They state that inspectors “do not only rely on formal knowledge and rules to reduce uncertainty, but also rely on colleagues, experience, intuition and social skills to navigate the unknowns in practice” (2019, p.27).

1.3. Research objectives

The purpose of this study is to focus on the discretionary power of labor inspectors to see how it affects their decision-making process. By providing a cross-reading of inspectors’ powers of injunction and discretion, we intend to show how their decisions are constructed during site inspections. We focused on the construction sector because we seek to go beyond an analysis of endogenous factors that influence inspection to focus on exogenous factors, such as the constraints of the inspected sector. Inspectors face many difficulties while conducting inspections in construction sites, which affect their practices and decisions.

While much research on the construction industry describes frauds and security breaches in the sector, little attention has been paid to understanding the processes of regulation underlying such issues. From this point of view, qualitative methods are particularly relevant as they allow grasping tacit knowledge and complex environments such as construction sites (Pink *et al.*, 2010). Our aim is to understand how actors rely on their discretionary power to make decision in the field. Our analysis sheds light on structural problems in the Belgian labor inspection system, with a deliberately empirical perspective, starting with actors at the front line of enforcement.

2. Research methodology

2.1. Data collection

This study is based on an eight-month qualitative research of various Belgian labor inspectorates, conducted in 2020. Our initial intention was to examine the regulation of work in the construction industry. We first conducted 10 exploratory interviews with “institutional actors”, i.e. representatives of professional federations, union staff, entrepreneurs, magistrates, journalists, etc. They were selected for their knowledge regarding employment issues in the construction industry.

As we progressively focused on state regulation on the construction sector, we oriented our interviews on labor inspectors. We started by interviewing inspectors from multiple inspection services. When we further narrowed our scope to social fraud and security issues in the construction industry, we decided to focus only on inspectorates that conduct these two types of inspection. This procedure led to the realization of 34 interviews (including 24 inspectors).

Our qualitative method is based on semi-structured interviews, participant observations, and document analyses. As mentioned above, we predominantly focused on two types of inspection: the fight against social fraud (with a focus on posted workers) and the control of well-being and safety at work. While the first theme involves several inspection services (at federal and regional levels⁸), the second is the monopoly of the well-being control department at the federal public service level. Our interview guide included questions about respondents (professional background), their organization (structure, work organization, internal interactions), their relationships with other inspectorates (frequency of interactions, competencies, benefit), the construction sector itself (fraud-related issues, safety-related issues, evolution of the sector), and the inspections themselves (preparation, execution, outcomes). Thanks to these interviews, we collected inspectors' discourses that enabled to grasp their practices as well as the particular issues that they encounter in the construction sector. The following table gathers all the interviews:

Material	Function	Precision	Date	Experience	Localization	N°
Semi-structured interviews (with institutional actors)	Union staff member	Specialized in the construction sector	05/11/2019	/	Liège	1
	Union staff member	Specialized in the construction sector	11/12/2019	/	Liège	2
	EU union staff member	European trade union for the construction sector	08/04/2020	/	Bruxelles	3
	Labor judge	Related to the Labor Court of Liège	14/05/2020	/	Liège	4
	Labor judge	Related to the Labor Court of Liège	25/05/2020	/	Liège	5
	Security advisor	Construction Sector Life Security Fund	03/06/2020	/	Liège	6
	President of the Belgian Construction Law Association	Professor at the University of Liège, specialist in contract and construction law	11/08/2020	/	Liège	7
	Investigative reporter	Director of a series on working conditions on construction sites	12/08/2020	/	Bruxelles	8
	Director of a local construction federation	/	11/09/2020	/	Liège	9
	Entrepreneur	Founder of 3 companies active in the construction sector	23/09/2020	/	Liège	10
Semi-structured interviews (with labor inspectors)	Labor inspector - Team leader (A)	FPS⁹ - Posted workers	07/04/2020	30 years	Liège	11
	Labor inspector - Team leader (A)	NSSO¹⁰ - Fraud networks	21/04/2020	10 years	Liège	12
	Labor inspector - Team leader (A)	FPS – control of well-being at work	24/04/2020	9 years	Liège	13

⁸ Belgium is a federal state with federated entities, which have their own competences. This means that there are labor inspection services at the federal level, but also at the federated entities level.

⁹ Federal public service

¹⁰ National social security office

Labor inspector - Team leader (A)	NSSO – Posted workers	29/04/2020	15 years	Liège	14
Labor inspector - Team leader (A)	National Institute of Social Insurance for the Self-Employed	25/05/2020	6 years	Liège	15
Labor inspector - Team leader (A)	NSSO – Posted workers and fraud networks	28/05/2020	16 years	Mons	16
Labor inspector (B)	FPS – control of well-being at work	04/06/2021	5 years	Liège	17
National Thematic Director	NSSO – Posted workers and fraud networks	16/06/2020	15 years	Bruxelles	18
Labor inspector - Team leader (A)	FPS - Posted workers	09/08/2020	9 years	Bruxelles	19
Labor inspector (B)	FPS - Posted workers	09/08/2020	8 years	Bruxelles	20
Labor inspector (B)	FPS - Posted workers	19/08/2020	2 years	Bruxelles	21
Labor inspector (B)	NSSO – Posted workers and fraud networks	19/08/2020	3 years	Bruxelles	22
Labor inspector (B)	NSSO – Posted workers and fraud networks	19/08/2020	6 years	Bruxelles	23
Labor inspector (A)	FPS – control of well-being at work	09/09/2020	25 years	Liège	24
Labor inspector (B)	FPS – control of well-being at work	09/09/2020	2 years	Liège	25
Labor inspector (A)	FPS – control of well-being at work	10/09/2020	9 years	Waremme	26
Labor inspector (B)	NSSO – general services	11/09/2020	35 years	Liège	27
Labor inspector (B)	NSSO – general services	15/09/2020	19 years	Liège	28
Labor inspector - Team leader (A)	RPS¹¹ - migration control	16/09/2020	12 years	Bruxelles	29
Labor inspector - Team leader (A)	NSSO – general services	17/09/2020	39 years	Bruxelles	30
Director of Economic & Social Inspection	RPS - migration control	19/09/2020	12 years	Namur	31
Labor inspector (B)	FPS - Posted workers	22/09/2021	5 years	Liège	32
Labor inspector (B)	FPS - Posted workers	22/09/2021	22 years	Liège	33
Labor inspector (B)	NSSO – fraud networks	08/10/2021	4 years	Liège	34

Table 1: Summary of interviews

In addition to interviews, we followed inspectors during site inspections. We did eight full days of observation, which led to the visit of 18 construction sites. During observations, extensive notes were taken. We carried an observation grid, which had three sections: “interactions between inspectors and inspectees”, “interactions between inspectors and rules” (including the various official documents that they have to fill in on site), and “interactions between fellow inspectors”. By focusing on these three types of interaction, we covered most of inspectors’ practices during inspections. Observations also allowed us to embody inspector’s visions on their work as we did not only observe from outside but also actively participate during inspections. We were included during workers’ audits (during social fraud inspections) as well as during the diagnostic of security breaches (during well-being inspections). As stated by Järvinen and Mik-Meyer (2019, p.15), “observations make it possible to analyze the positioning of the participants, their social

¹¹ Regional Public Service.

identities and strategies, the standards and procedures affecting their social life”. This approach completed the interviews by reaching certain unspoken knowledge and strategies (Pink *et al.*, 2010) that proved to be essential when studying inspectors’ activities. We also observed two court hearings to understand how prosecutions were conducted as a result of certain inspections.

Finally, we collected documents during every contact with the field. This enabled the creation of a documentary repertoire, where we have classified documents according to several categories: official and legal documents, documents of an informative nature, activity reports, and internal documents of the various inspection services (memos, guidelines, checklists, etc.). We were able to crosscheck many documents to realize that they often referred to each other, which prove that they belong to a network (Atkinson and Coffey, 2004). This network of documents revealed some similarities with collected discourses, but also showed discrepancies. The convergence of these three sources (interviews, observations and documents) provides a robust foundation for analysis, based on the principle that Creswell and Miller (2000) call “data triangulation”.

2.2. Data analyses

As we favored a qualitative methodology, we drew of inspiration from the grounded theory method (Glaser and Strauss, 1967). This method “generate insights that are grounded in street-level work, i.e., based on people’s own understandings of their surroundings, and on observations of day-to-day street-level work” (Raaphorst, 2019). Our coding process was inspired by this method, drawing on the works of Charmaz (2019) and Gioia *et al.* (2012). Both exploratory interviews and inspectors’ interviews were fully transcribed and coded through MAXQDA. Our analysis then took place in two steps. We first focused on inspectors’ discourses regarding their difficulties while conducting inspections. We then identified the arguments mobilized to overcome these constraints. Thanks to this process, strategies that drive inspectors’ activities and helps to make decision following a control site inspection gradually emerged.

The first coding process targeted the context of inspections, with a focus on perceived constraints faced by inspectors. All these constraints weigh on inspectors’ activities and, more specifically, on their discretion power. The coding process led to the identification of more than 80 quotes where inspectors described their difficulties while conducting inspections. We then classified the constraints in two types: the ones specific to the construction sector and the ones specific to the inspection services. Three construction-specific categories of constraints emerged. Such constraints outline the context in which inspectors operate when conducting inspections in the construction sector. They will be detailed in the first section devoted to the results. They are summarized as follows:

1. **High degrees of mobility (Inherent hazardousness of construction activities)**
2. **Extension of subcontracting chains and internationalization of the workforce**
3. **Legislative ambiguity and extensive regulation**

The first step of the coding process also revealed specific constraints of inspection services. These constraints are common to most inspection services and are not specific to the construction sector. Among them, we identified the lack of resources, the multiplicity of inspection services and levels of authority, the “Managerialization” of public services, and the increase of administrative burdens.

These more general constraints will not be further investigate as our contribution focus on the specificities of the construction sector.

In order to cope with these constraints, inspectors develop behaviors, attitudes and justifications that can be described as “strategies” (Crozier & Friedberg, 1977). As the analysis progressed, it emerged that these strategies referred to specific dimension of the profession of inspector. This second coding process was carried out in three steps. We started by coding every excerpts where inspectors mentioned their resources when facing difficulties during inspections. We identified dozens of codes. Secondly, these codes were assorted together in “categories”, which can be defined as “sets of expressions that allow naming a phenomenon thanks to a conceptual reading of a research material” (Lejeune, 2014, p. 63). This step allows leaving the individual reactions to focus on more general phenomenon (Blais & Martineau, 2006). Thirdly, we classified these strategies according to similar characteristics, which resulted in the identification of five main dimensions. Most of inspectors’ discourses regarding inspections were classified inspectors under these 5 dimensions. Through the analysis of interviews and observations, we noticed that these dimensions were more than discourse categories and could be crucial in the decision making process of inspectors. This is why we describe this dimension as “logics of action” in our analyses. We were able to identify five logics: “the procedural logic,” “the value logic,” “the collaborative logic,” “the trust logic,” and “the experience logic.”

Faced with constraints and complex situations, it appeared that inspectors more or less resort to some of these dimensions to explain their decision-making processes. It is particularly interesting to analyze how the context makes inspectors resort more to one dimension than another, and to see how the use of such dimension guides their actions and impacts their decision. As stated by Alvesson & Karreman (2000), actors’ discourses and practices are co-constructed. The reference to a particular dimension indicates the representation that the inspector has of a situation and how his practices are shaped by this representation. Contexts -which encourage inspectors to use a particular logic-, are essential since they have a direct impact on the practices of inspectors. The following diagram, or data structure (Gioia et al., 2012), summarizes our second coding process:

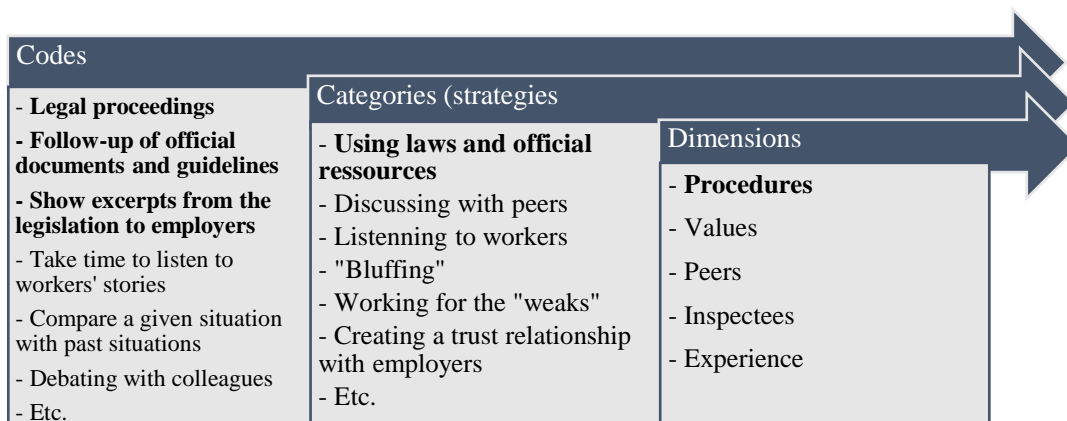


Figure 1: Second step of the coding process

3. Results

In this section, we start by illustrating inspectors' difficulties while conducting inspections in the construction sector. We relate each identified difficulty to the three levels (collect of information, interpretation, and action) of uncertainties described by Van de Walle & Raaphorst (2018). In a second step, we analyse inspectors' discourses on the resources they mobilize to overcome complex situations. We give a few example of strategies and justifications that led us to identify five "logics of actions". The third part of our analysis shows how these dimensions influence the decision-making process of inspectors. This analysis penetrates the discretionary power of inspectors by showing how unofficially planned resources are mobilized in the decision making process and influence the outcomes of inspections.

3.1. The specific constraints experienced by inspectors in the construction sector

High degree of mobility (and inherent hazardousness of construction activities)

Nicolas Dodier (1986) described construction site as transient environments characterized by a permanent motion. Such sites are temporary zone where workers usually only stay for a preset period. Mobility also concerns workspaces, which are constantly being redefined. This constraint has implications regarding the fight against fraud, but also in term of security inspections. As far as the fight against social fraud is concerned, mobility creates uncertainty in the identification of workers. It is sometimes very difficult for inspectors to find (or trace) a worker:

"When a fraudulent structure is brought down, workers do not go back to the site immediately. They go to another site. They are very mobile. If we close a cafe that works with undeclared workers, it stays closed. For construction sites, it is much more complicated. It is easy for workers to slip through the cracks because of the mobility of the sector." (Labor inspector, Anti-Dumping Unit)

This constraint is very time-consuming for inspectors as it considerably extends the time needed for investigations. It sometimes happens that inspectors never find the sought-after workers again. This difficulty relates to the uncertainty regarding the collect of information (Van de Walle & Raaphorst, 2018).

The perpetual evolution of working environments also influence inspectors, as they always have to adapt to new contexts. Well-being inspectors are particularly affected by this difficulty, because they have to evaluate provisory activities that always have specific settings. This quote illustrate this difficulty:

"A building site evolves very quickly. You arrive at a temporary staircase that is rickety, and two days later, there may be a concrete staircase. De facto, you have to act in a different way, always bearing in mind that the situation is changing fast." (Labor inspector, Well-being Control Unit)

Again, this contextual element poses problems for the collection of valuable information. Workers's motilities and sites' evolution generate uncertainties that weigh on the inspectors' interpretation process as they are always facing new situations (Van de Walle & Raaphorst, 2018). This requires adaptability and increased responsiveness from inspectors).

Extension of subcontracting chains and internationalization of the workforce

The construction sector highly relies on subcontracting (Bosch & Philips, 2003). Multiple companies work on the same constructions sites. For inspectors, these relationship structures raise an important issue regarding accountability. Who is subordinate to whom? Who is responsible in case of accidents? Such important questions that inspectors have to clarify in the course of their investigation. In the last 25 years, subcontracting chains have extended to become more and more international (Davies *et al.*, 2011). Inspectors had to adapt to the European directives and their translation into Belgian law. International subcontractors have brought a new layer of complexity, mainly concerning the identification of employers. The following quotes attest this difficulty:

“Now, the biggest difficulty at the end of our inspections is to get a telephone number of the company's representative. It is even harder to find someone who speaks French or English” (Labor inspector, Welfare Control Unit)

“Companies' strategy is to use subcontractors. The general contractor calls on another Belgian company as a subcontractor, and from then on, things start to get tricky. The Belgian company itself calls on several foreign companies, [...]. We end up with complex subcontracting chains. [...] Understanding these chains is a very hard job for us. (Labor inspector, Anti-Dumping Unit)

The internationalization of the construction sector has had a considerable impact on inspectors' activities. In addition to employer's identification problems, other issues were raised during our interviews. We can mention those concerning languages, territoriality of competences, difficulties in communicating with foreign inspection services, or even those related to the inadequacy of legislation between the different countries. All of these factors have brought complexity for inspectors to collect information. The following attest of this difficulty due to the language barrier:

“Language is a huge problem. Workers' auditions are hell. They do not understand what we are asking and we do not understand what they are telling us. On top of that, translators cost a fortune. Everything is tedious and slow. We get discouraged” (Labor inspector, Anti-Dumping Unit)

Subcontracting creates various difficulties for inspectors, the main one being the identification of responsible employers. The internationalization of subcontracting chains has made it hard for inspectors to interpret information, as it is sometimes covered by the legislation of another country. Internationalization has created new interdependencies (with administrations of other countries) and new uncertainties (regarding the territoriality of competencies, language barrier, etc.).

Legislative ambiguity and extensive regulation of the construction sector

Through all interviews, it emerged that the construction sector's legislation is particularly extensive. In addition to the Belgian labor legislation, the sector has numerous specific rules, including those on temporary and mobile work sites, public procurement and temporary unemployment. Inspectors must integrate this plethora of laws and their numerous updates. Our observations and interviews showed a wide range of behaviors regarding the mobilization of the law. Even though security and fraud refer to specific distinct legislation, we have identified similar behaviors. One attitude repeatedly encountered is to question and criticize the laws. Several inspectors told us that laws were inconsistent and sometimes largely inadequate to act properly in the construction sector. The two following quote illustrates this perceived inconsistency.

“A law is ridiculous if an employer can easily circumvent it. The perfect example is the one of the joint liability between subcontractors¹². If something goes wrong, it is so easy to break the contract. This law is useless”. (Labor inspector, Anti-Dumping Unit)

“People in offices in Brussels make laws that do not fit with the reality of construction sites. Helmets are a good example: obviously, I do not expect workers to wear them all the time, even if it is mandatory”. (Labor inspector, Anti-Dumping Unit)

On the one hand and as illustrated above, one of inspectors’ argument is that legislation do not fit with the reality of the field. On the other hand, they deplore the lack of enforcement possibilities offered by the legislation. The effectiveness of their sanctioning power was extensively discussed during interviews. Inspectors have two principal possibilities when they decide to sanction an employer: either they refer the case to court or they intend an internal regularization procedure through administrative fines. The problem with sending cases to court is that they take a long time and that sometimes prosecutions are not even initiated. Inspectors therefore tend to turn to administrative fines. According to some them, fines are often too low, which greatly reduce the dissuasive effect of such fines. The following extract demonstrates this:

“The dissuasive effect of our actions is limited. Administrative fines are ridiculous. The only thing that works is to threaten to close a construction site”. (Labor inspector, Welfare Control Unit)

Many inspectors also argue that the legislative complexity paved the way for circumventions on the behalf of employers. One of the inspectors did not hesitate to present the legislation as a “buffet”, where employers help themselves in order to obtain advantageous conditions:

“We observe that legislation is a buffet on every construction site. Even though the welfare code should be applicable to everyone and the instructions should be intelligible in the worker's language, this is not happening in practice”. (Labor inspector, Anti-Dumping Unit)

The relationship of inspectors to the law is plural. Inconsistencies between the philosophy of the law and its application on the field raise interpretation issues for them. Inspectors also question the laws regulating their profession. In particular, they criticize them for not providing sufficiently dissuasive sanctions. This has a direct impact on the actions they take at the end of their inspections. As we have shown, some of them tend to favor administrative sanctions, which are certainly less dissuasive but for which they are sure to reach a conclusion (which is not the case for cases referred to courts, which can take years to be concluded).

3.2. “Logics of action” as guides for inspectors’ decision making processes

The logic of action is the aggregation of strategies and justifications that we have identified in the inspectors' discourse. Inspectors usually combine multiple logics when carrying on inspections, and choose to refer to one or multiple of them according to the situation. These logics have two purposes in the inspectors’ work. On the one hand, they might facilitate their decision-making processes. On the other hand, they help inspectors to make sense of their activities (justify a decision afterward). Both these implications are discussed in this section. Logics are interpretation

¹² A contractor is due to pay his subcontractors’ debts if the last go bankrupt

keys through which inspectors' discourse can be filtered. Push to the extreme, these logics can be set as an "ideal type" (Coenen-Huther, 2003).

Procedural logic (relying on procedures and laws)

This first logic is dedicated to the relation to legislation. The procedural register refers to strategies that always place law at first. In the procedural logic, legislation is seen as the main resource for actions. The complexity of the construction sector is managed by a strict follow-up of numerous standards and procedures. The following quote exemplifies this logic:

"When I see an infraction, I directly relate through legal methods. I start with the law and proceed systematically. Just by starting with the law, I can advise employers. Ladder work is an example; legislation on working at heights is so strict that I just relate to it." (Labor inspector, Welfare Control)

Laws are not the only thing inspectors can rely on. Many procedures and other guides for action exist within inspection services. Referring to the procedural register means relying on pre-established procedures. There is little room for improvisation and negotiation. Legislation is applied as firmly as possible.

Values logic (relying on values)

During interviews, it rapidly appeared that personal values played an important role in inspectors' activities. A typical valuational positioning is to consider the work for its subordinate position: *"Workers are disadvantaged and they should be protected"* (Labor inspector, Anti-Dumping Unit). The following quote is a perfect summary of what inspectors might evoke when referring to the value register:

"My approach has always been that we are dealing with human beings. They deserve respect, and we must treat them accordingly. If we make sure that working hours and salaries are respected, it is for the people, not for our own personal glories. I am not interested in being promoted. I am not here to make a career; I am here to work for the people." (Labor inspector, Anti-Dumping Unit)

When referring to the value register, inspectors explain that their goal is to regularized situations where workers are disadvantaged. Laws have less influence on the decision-making process than the inspector's belief of what is fair or unfair. With the value logic, the objective is to prevent fraudsters from doing harm or workers to be injured. Inspectors place workers at the heart of inspections. Their commitment in a case depend on their feeling of injustice.

Collaborative logic (relying on colleagues)

This logic refers to the collaboration between fellow inspectors. Two types of collaborations should be distinguished: the ones between inspectors from different administration and the ones between colleagues from a same administration. Collaborations between inspectors belonging to different administrations are essential to curb fraud and security issues, as each inspector has his own competences. Various tools and platforms are implemented to foster these collaborations. Joint inspections between different inspection services also take place. Inspectors told us that a certain solidarity was developing between administrations:

"The coordination with the other services runs smoothly. There is a good exchange and we communicate well and often. When we need information, even for the next day, we can get it."

Collaboration is carried out promptly. We exchange information and, above all, we benefit from each other's expertise.” (Labor inspector, Anti-Dumping Unit)

Solidarity is also present within a same administration. We observed that interactions between colleagues had an important role during inspections. By comparing their points of view, inspectors establish the outcomes of an inspection together. Discussions help them to confirm their intuitions and to foresee together the follow-up to the inspection. These exchanges are an important strategy to diminish uncertainty.

In both cases, exchanges with colleagues makes it possible to confirm one's own opinion on a situation, to pool skills, and finally to fight more effectively against the problems of the sector. In the context of construction where inspectors have to evaluate a wide range of situations, this logic is often used.

Trust logic (relying on trust with inspectees)

This logic refers to the relationship between inspectors and inspectees. During observations, we noticed various degrees of familiarity. Familiarity behaviors were particularly observed among inspectors who were attributed a geographical sector and knew it well. These inspectors were very close to managers and other team leaders on sites. This logic is based on the confidence that build up with inspectees. It is a long-term logic, where the inspector establishes a relationship of trust with inspectees. In this logic, inspectors emphasize on education over enforcement.

“During inspection, we have a discretionary power. This gives us the possibility to discuss with the workers. We have as much a role of advice as a role of repression. We solve many situations through dialogue, without especially engaging legal proceedings” (Labor inspector, Welfare Control Unit)

By using this logic, inspectors hope that situations will be regularized quickly, without resorting to formal procedures. They rely on the complicity created with the inspected to obtain compliance.

Experience register (relying on experience)

Inspectors usually have few allies during inspection, there are left alone with their colleagues and their own discretion. One of their main techniques for gathering information is observation. As they inspect a construction site, they compare current situations with previously encountered ones. The more experience inspectors have, the more likely are able to associate the present situation with a situation they have encountered before. These comparisons help to reduce unpredictability. This is why it takes time for an inspector to be “operational”, as the following quote attests:

“Because of our discretion power, it takes a long time for inspectors to be operational. The legislation is quite extensive, with lots of theoretical concepts. You have to be able to recognize laws in actions, to understand situations and to interpret in the field. It takes 4 to 5 years of experience for an inspector to feel comfortable in almost any work situation.” (Labor inspector, Welfare Control Unit)

This experience is constructed through inspections. Inspectors progressively build their own “control toolbox”. We observed various individual checklists or reminders written by the inspectors. Several inspectors mentioned “tricks” that they develop with experience such as “bluff” (lying to the inspectee to get them to confess certain things) or “discretion” (observing the site well before stepping in so that nothing can be concealed during the visit).

3.3. Impacts of logics on the outcome of inspection: regularization or legal proceedings?

In the following table, we propose a summary of the “logics of action” that we cross with the three key stages of the theoretical decision-making process of Van de Walle & Raaphorst (2018):

	Logics of action				
Decision making process	<i>Procedural</i>	<i>Based on Values</i>	<i>Collaborative</i>	<i>Trust with inspectees</i>	<i>Based on Experience</i>
INFORMATION (collect and preparation)	Using data bases and all official sources	Working on behalf of personal values	Collaborating with other departments	Prioritizing the fieldwork	Being proactive / following intuition
INTERPRETATION	Referring to questionnaire and audition documents	Defending workers’ rights and interpreting information based on individual beliefs of justice.	Referring to colleagues	Detailing the actions / being pedagogue	Use of tricks : - Bluff - Discretion - Surprise - Etc.
ACTION	Infraction = sanction	Prioritize regularization	Joint decision	Warn and inform (trust)	Tailored to the situation

Table 2: Summary of the logics of action and their impact on the inspectors' decision-making process

This table summarizes the main results of our analysis and shows that inspectors’ decision-making process is influenced by these logics. By emphasizing certain argument, inspectors engage in a specific decision-making logic. It is important to mention that these logics can be complementary and are not exclusive. Although the first logic (procedural) matches best the job description of an inspector, it is rarely mobilized alone. The specific constraints of the construction sector that we have identified at the beginning of our analyses allow illustrating the possible combinations of several logics in the course of an inspection.

If we start with the case of international subcontracting, we have seen that the collection of information is very complicated due to the multiplicity of actors and documents. One strategy that we have observed rely on the collaborative logic. Inspectors develop relationship with key informants (for instance labor inspectors from other inspectorates). They do this by establishing a win-win relationship where they accept to be sometimes informers themselves. This strategy allows inspectors to benefit from the skills of others and to be part of a much wider knowledge network than the one of their administration. Once they have the necessary information, they can switch back to a procedural logic for interpretation and decision-making.

We can give another example when inspectors face with the perpetual evolution of construction sites. A well-being inspectors that has to go several times to a same site during a year might develop a trust relationship with the site manager. This relationship allows him to have a good description regarding the evolution of the site whenever he visits. Thanks to this information, the inspectors directly focus on the most dangerous activities on the construction site, without going through a full site review. He will also be able to obtain information on other sites carried on by the same

company, information that he can transmit to his colleagues. In the course of an inspection, this same inspector may invoke a logic based on values to justify possible taken sanctions. He may also switch to a much more repressive tone if the inspectees do not consider its recommendations and warnings.

When faced with the introduction of a new regulation, an inspector may decide to rely on his experience. Seeing that he is having difficulties in interpreting this new rule, he can turn to his colleagues at the time of the inspection to find out how they have understood it. This could lead a concerted decision that he would not have considered alone.

Another strategy that we have encounter during the fieldwork is the use of a very firm procedural tone to make sure to obtain something from the employer. This example comes from anti-fraud inspection when the inspectors discovered that workers were underpaid. If the employer agrees to correct the situation and pays the worker retroactively (regularize the situation), inspectors might not initiate any legal actions (even though an infraction has been noticed). However, if the employer does not comply and refuse to pay, subpoenas might be used as a threat to force the employer to regularize. This practice is illustrated by the following quote:

“I take advantage of the threat of the subpoena to ask employers to regularize before being condemned. Employers do not know that courts often drop these cases. The subpoena becomes a lever that stimulates employer. The courts are not reactive enough [...]. However, the administrative fines department pursue cases through the end. Their decisions result in decent administrative fines, sometimes quite high”. (Labor inspector, Anti-Dumping Unit)

By informing the employer of the legal consequences, the inspector hopes that the employer will quickly regularize the situation, without taking the risk of a lawsuit. With that kind of regularization, a tacit agreement is made with the employer: if he quickly regularizes the situation, there will be no prosecution. This strategy is particularly used when referring to the value logic. Some inspectors told us that they felt useful with these regularizations, as opposed to legal proceedings that can last for years. The regularization is a way to feel useful and effective in the short term.

These are just of few examples of possible combinations of logics. This grid is a reading key that helps to understand the arguments behind the discretionary power of inspectors. This grid does not exclude the possibility of adding other dimensions in the inspectors' decision-making process.

4. Discussion

Our study's central goal was to understand how labor inspectors deal with the specific constraints of the construction sector to ensure proper compliance with the law. Our empirical approach proposes to link the discourses of inspectors when talking about their constraints and resources to their decision-making processes during inspections. In doing so, we have demonstrate the importance of inspectors' discretionary as we have developed a framework for understanding their decision-making process.

In line with the work that considers labor inspectors as “street level bureaucrats” (Lipsky, 2010; Van de Walle & Raaphorst, 2018) we have highlighted the importance of the context in the course of

inspections. From a theoretical point of view, the originality of our contribution is that we focus on a particularly complex sector for labor inspectors, who perhaps make even greater use of their power of appreciation than elsewhere. This allowed us to identify, in addition to the reliance on procedures, four other dimensions to which the inspectors resort when they talk about their inspections. Among these dimensions, some are in line with categories already identified in the literature. This is the case, for example, of the importance of trust, which is found in the work of Davidovitz and Cohen (2021) on social service providers.

In addition to the theoretical contributions, it seems to us that our paper has at least two practical contributions that should be highlighted. The first concerns a debate that is raised in several parts of the article on the tension between regularizing a situation (bringing a situation back to normal) and prosecuting through legal proceedings (in order to obtain a judgment and eventually a conviction). It seems that the strategies mentioned in this article are mainly based on a short-term logic that favors the regularization of illegal situations. Inspectors feel more effective when obtaining administrative fines rather than legal proceedings (that could take years). The problem is that this reasoning does not allow for a structural fight against fraud and work accident. This concern should therefore be raised, especially with respect to the political authorities that allocate resources to inspectors.

Another startling result is the increasing complexity of fraud structures. For instance, the multiplicity of stakeholders creates many problems in identifying employers. There is a new time-consuming work for inspectors of understanding the structures. Then, the inspections are rather repressive, even though the inspectors know “that this is not what will solve the problems”. There is a kind of resignation with fraud, where inspectors are content to make “nice catches” but recognize that the majority of the phenomenon escapes them. The problem is that the procedures no longer make it possible to fight the problems effectively. Inspectors then relate to other logics (value, experience, etc.), which isolate them and sometimes even distance them from their objectives (because they take too much time in certain cases).

Our study demonstrates that the discretionary power of inspectors is essential to apprehend the evolution of inspection in the construction sector. At the same time, it also highlights its limits by showing that it is not an infinite resource. A well-established injunction power based on clear rules is also essential to reduce fraud and the frequency of work accident.

4.1. Implication and further research

This empirically grounded research in the construction industry uncovers complex processes of labor regulation. It allows shifting from an often macro-oriented debate (on regulation and more specifically on social dumping and work accidents) onto a more experiential level by focusing on the role of labor inspectors and their daily activities. As a very limited number of papers deal with the state regulation in the construction industry in Belgium, this contribution seems essential to discuss the performativity of inspections aimed at regulating fraud and security. This study also partly explains why labor inspections do not really meet the expected results in this sector. Exploring critical moments such as site inspections enhance our understanding of the complexity of law enforcement in the field. Our inductive approach reveals logics of action that develop on the margins of the legal framework and that contribute to the regulation of the sector. This paper is a

pathfinder as we tackle empirically macro-oriented debates that appear in the literature on employment in the construction sector. In the future, other research could be carry on labor inspectors in order to improve knowledge of the extent of their discretionary power. These results could be used as the basis for a report on the additional resources that inspectors would need to carry out their inspection mission

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