

1st meeting of the European Labour Authority - Working Group on Mediation

25 – 26 February 2021

- Summary of the deliberations –

The experts appointed by the ELA Management Board met via video conference on the 25-26 February 2021 for the first meeting of the ELA Working Group (WG) on Mediation. The meeting's main goal was to start the discussions on how ELA can effectively apply the founding Regulation and establish the necessary rules of procedure and working arrangements in the area of mediation.

Tasks and work of the WG on mediation

The WG will be proposing and laying the foundations of one of ELA's seven core tasks, providing their expertise with the aim of developing the tools and modalities to be used in the actions of ELA related to mediation. In addition, the WG will be providing expertise on matters pertaining to the legal and practical aspects of organising and conducting mediation, and finally, will be exchanging views on and identifying best practices and examples of good cooperation in the field of mediation in view of developing the activities of the Authority.

Purpose and goals of the first meeting of the WG on mediation

The purpose and goals of the first meeting are first and foremost, for the experts to get an overview on ELA's mediation procedure as provided in the founding Regulation, and open issues to be addressed in the rules of procedure. The experts will also be presented with other dispute resolution mechanisms which exist in the area of labour mobility, as well as be updated on negotiations with the Administrative Commission with regards to the establishment of a cooperation agreement. Finally, the WG will start discussing the proposed key features of ELA mediation procedure.

Presentations by ELA, the Chair of the Conciliation Board, and the European Commission

During the first part of the first day, ELA presented the mediation procedure as provided in the founding Regulation, and highlighted several open issues that need to be addressed in the rules of procedure and the working arrangement. Afterwards, the Chair of the Conciliation Board, being one of the two representatives of the Administrative Commission (AC) for the coordination of social security systems who attended the WG presented the dialogue and conciliation procedure which exists in the area of social security coordination. A representative of the European Commission (DG GROW) presented the SOLVIT procedure. A representative from ELA informed the experts of the WG on the negotiations with the AC with regards to the establishment of a cooperation agreement, pursuant to Article 13(11) of the Reg. 2019/1149.

Discussion on proposed key features of the ELA mediation procedure

The meeting proceeded with a presentation by a representative of ELA on the proposed key features of the ELA mediation procedure. This was based on a working document which was circulated 2 weeks in advance to all the experts of the WG. ELA underlined that the working document was drafted to provide

guidance and assist the experts of the WG during their discussions. The structure of the discussion included the presentation of the legal provisions in the Regulation, suggested way forward in implementing those provisions, and discussion questions.

The working document was presented in sections. The experts had the opportunity to express their comments and ask questions on each section, with some requesting clarifications on certain points and expressing their opinions on others. ELA provided explanations wherever possible and took note of the issues raised by the experts with the aim to provide possible clarifications during the next meeting of the WG.

During the meeting, the role of the NLOs within the mediation procedure was discussed, and this was identified as one of the issues on which the experts will be asked to provide their views in writing. To this regard, the workflow guidance in the field of inspection, adopted by the Management Board in December 2020, could be used as an example.

Open issues identified during the discussion

By the end of the discussions, a number of open issues were identified, on which the experts will be asked to provide their views. These are:

- The number of panels of the mediation board, and the subject of those panels.
- The involvement of social partners in the mediation procedure within the limits of the ELA Regulation.
- The participation by experts from Member States in an advisory capacity during the first stage of mediation.
- The deadlines for each step of the mediation procedure.
- The working language for the mediation procedure.
- The role for ELA during the initial contact and dialogue stage.
- The minimum number of mediators and experts on mediation board to be appointed.
- The issues on cooperation with the Administrative Commission in relation to disputes concerning social security.
- The term of appointment of mediators/experts and dealing with cases started but not concluded before the end of term.
- The role of NLOs within the mediation procedure.
- Disputes where conflicting facts are presented – the role of external experts.
- Referral of cases by the SOLVIT network.

Conclusions and next steps

During the closing remarks ELA asked the experts of the WG were asked to reflect on what was discussed and to reach out to ELA should they have any further questions or comments in relation to the identified open issues. The Chair informed that a follow-up note requesting the views of the experts on these issues will be sent after the meeting.

The meeting participants included experts from ELA, experts from the Member States, experts from the Administrative Commission, and representatives from the European Commission, the European Parliament, and the Social Partners.

Date of next meeting

The next meeting of the WG on mediation will be held on 23 April 2021. More details, including the agenda, will follow at a later stage.