





## European Platform Undeclared Work

### Bilateral Agreement of Cooperation with Bulgaria to tackle undeclared work

France

	<b>Summary</b>  As part of the fight against undeclared work, France and Bulgaria have ratified a Bilateral Agreement for enhanced cooperation between their labour inspectorates. The aim is to combat fraud in the posting of workers, in particular, through joint and concerted inspections between the two countries.
<b>Title of the practice in original language</b>	<i>Inspections conjointes et concertées du travail détaché France-Bulgarie</i>
<b>Name(s) of authorities/bodies/organisations involved</b>	French and Bulgarian labour inspectorates
<b>Sectors</b>	Agriculture and fishing
<b>Target groups</b>	<ul style="list-style-type: none"> <li>• Labour inspectorates from both countries (directly targeted);</li> <li>• Posted workers and employers in both countries (indirectly targeted).</li> </ul>
<b>Purpose of measure</b>	Deterrence: improve detection

	<b>Aims and objectives</b>  The Bilateral Agreement aims to reinforce the inspections of Bulgarian posted workers working in France on a trial basis i.e. currently in one region (Centre Val-de-Loire) and in the agricultural sector only. Cooperation between the two labour inspectorates has been established based on common tools and allowing for a better common understanding of legal rules and their application.
<b>Background context</b>	The influx of Bulgarian posted workers to France has increased significantly, reaching 20 500 workers in 2017, representing 4% of the total number of posted workers in France <sup>i</sup> . Two-thirds of them are concentrated in the agricultural sector, and half of them work in one region (Centre Val-de-Loire). Another characteristic is the predominance of temporary work (70%). <sup>ii</sup>



	<p>Labour Inspectorates have identified many fraudulent situations in the posting of workers entailing cases of undeclared work (and in some cases illegal work), in particular through infringement of French labour law and circumvention of posted worker regulations and social dumping.</p> <p>Also, this creates issues in the field of working conditions. Complaints from Bulgarian workers on their working conditions in France were filed in France. A fatal work accident was recorded but was not declared.</p> <p>The Bulgarian Labour Inspectorate and Bulgarian companies have also expressed a need for improved understanding of French legislation.</p> <p>In 2008 a Bilateral Agreement for cooperation was signed between the French and Bulgarian Governments, which came into force in 2014<sup>iii</sup>. In France, in June 2017 a protocol for the operational implementation of the agreement, covering the entire country, was signed between both Labour Inspection authorities<sup>iv</sup>. This agreement has led to joint inspections on a trial basis in the region concerned and in the agricultural sector.</p>
<b>Key objectives of the measure</b>	<p>General objective:</p> <ul style="list-style-type: none"> <li>To combat fraud in the posting of workers through joint and concerted inspections between France and Bulgaria.</li> </ul> <p>Specific objectives:</p> <ul style="list-style-type: none"> <li>To improve cooperation and exchange of information on posted workers between both labour inspectorates;</li> <li>To improve the understanding of labour laws and national labour inspector procedures in both countries;</li> <li>To improve understanding of the working situations of posted workers;</li> <li>To raise awareness among workers and employers of the host country's legislation to combat unfair competition by ensuring its proper application;</li> <li>To defend the rights of posted workers in the event of fraud or infringement in the host country.</li> </ul>
<b>Main activities</b>	<p>General cooperation in the prevention and combatting of undeclared work:</p> <ul style="list-style-type: none"> <li>Both inspectorates have exchanged information and documentation on relevant national legislation (working hours, wages, collective agreements, etc.) as well as regulations concerning posted workers. They have also undertaken actions to allow the other to get to know their working methods,</li> </ul>



	<p>procedures etc. in order to enable a more effective cooperation;</p> <ul style="list-style-type: none"> <li>• The questionnaire used during inspections has been adapted to improve posted workers' understanding of the regulations etc. (e.g. translation into Turkish, the language practised by a part of the Bulgarian posted workers in France);</li> <li>• Information sessions targeted at Bulgarian companies were carried out in Bulgaria by French inspectors;</li> <li>• Working meetings were organised between the Bulgarian inspectors and trade union organisations from both countries (which have already been cooperating for several years on this topic).</li> </ul> <p>Activities during joint or concerted inspections:</p> <ul style="list-style-type: none"> <li>• Exchange of preliminary information between both inspectorates on reported cases of fraud;</li> <li>• Consultation between the two inspectorates regarding the plan of action to be implemented when carrying out the join inspection;<sup>v</sup></li> <li>• Exchange of information on the continuation of the procedure (regularisation of the situation of workers, penalties paid by the employer, etc.).</li> </ul>
<b>Funding/organisational resources</b>	<p>In its start-up phase, the practice was financed within the framework of a European project, the SLIC (Senior Labour Inspectors' Committee) programme. Following that, both inspectorates established a business plan to improve and continue the work. Another European project ("Euro-détachement") fostering cooperation to combat fraud in posted work is also being mobilised to finance this practice.<sup>vi</sup></p>

	<p><b>Outcomes</b></p> <p>Joint inspections have identified the creation of transient temporary work agencies and some difficulties in the application of existing posted work regulations. Through reinforced cooperation and bottom-up practices, a crucial outcome has been the improved understanding of workers and employers of the regulations.</p>
<b>Achievement of objectives</b>	<p>The first qualitative evaluation is currently being carried out by the Steering Committee that monitors the implementation of the Bilateral Agreement. Early findings suggest that cooperation between the two labour inspectorates has improved and a relationship of trust between the two parties has been built.</p>



	<p>In quantitative terms, four joint inspections were carried out in 2018 in France and Bulgaria, leading to the following observations and outcomes:</p> <ul style="list-style-type: none"> <li>• The existence of an important phenomenon of transient temporary works companies, created for very short periods of time, was observed;</li> <li>• A better understanding of the regulations on posted work for each country. This has led to the identification of the main "shadow areas"<sup>vii</sup> in applying the regulations, concerning specific issues, eg about who must report the accident at work, or who must compensate in the event of an accident at work;</li> <li>• An improvement of the quality of information exchanged with the Liaison Offices<sup>viii</sup>;</li> <li>• Improved communication with posted workers during inspections. The presence of inspectors from both countries allows a more productive exchange between workers and inspectors;</li> <li>• A better understanding of the reality of the working conditions of posted workers;</li> <li>• Improved effectiveness of deterrence measures. Companies that post workers now know that they may be subject to investigation in both countries.</li> </ul>
<b>Lessons learnt and success factors</b>	<p>The main success factor lies in the bottom-up process implemented, which responds to the practical needs of inspectors from both countries. Its success is also based on the political will of the two national authorities to improve cooperation, a regular monitoring and control of the agreement, and a real business plan defined by the inspectors themselves.</p>
<b>Transferability</b>	<p>The transfer to other regions/sectors depends on the provision of adequate funding. International transferability depends on the quality of cooperation between countries. Also, existence of experience in this area is useful. For example, the existence of a joint inspection agreement between France and Belgium helped in the design of this similar Bilateral Agreement with Bulgaria.</p>

<b>Further information</b>	
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<b>Useful sources and resources</b>	<ul style="list-style-type: none"> <li>• French Government, 2015, « Accord de coopération administrative entre la France et la Bulgarie relatif à la lutte contre l'emploi non déclaré »<sup>ix</sup>. [Agreement on administrative cooperation between France and Bulgaria on combating undeclared employment];</li> <li>• French Ministry of Labour, 2017, « Protocole de mise en œuvre opérationnelle de l'accord de coopération administrative de 2015 entre la France et la Bulgarie relatif à la lutte contre l'emploi non déclaré »<sup>iv</sup>. [Protocol for the operational implementation of the 2015 administrative cooperation agreement between France and Bulgaria on combating undeclared employment];</li> <li>• Lavaure A., (DGT), Anguelova M., (GLI EA), 2018, «Follow-up of joint inspections France – Bulgaria cooperation »<sup>i</sup>, European advisory group for the European labour authority, 10<sup>th</sup> October 2018;</li> <li>• Senior labour inspectors committee, 2018, <i>Report of the joint inspections France and Bulgaria</i>.</li> </ul>

<sup>i</sup> Lavaure A., (DGT), Anguelova M., (GLI EA), 2018, «Follow-up of joint inspections France – Bulgaria cooperation », European advisory group for the European labour authority, 10<sup>th</sup> October 2018.

<sup>ii</sup> *Ibid.*

<sup>iii</sup> French Government, 2015, « Accord de coopération administrative entre la France et la Bulgarie relatif à la lutte contre l'emploi non déclaré. »

<sup>iv</sup> French Ministry of Labour, 2017, « Protocole de mise en œuvre opérationnelle de l'accord de coopération administrative de 2015 entre la France et la Bulgarie relatif à la lutte contre l'emploi non déclaré ».

<sup>v</sup> Depending on the case, there may be a joint inspection (presence of the two inspectorates at the controls) or concerted inspections (each inspectorate conducts an investigation in its country and exchange the information collected with its partner)

<sup>vi</sup> European funding only covers travel and interpreting costs. The remainder of the cost, i.e. human cost (salary of inspectors, supervision, etc.) is financed by each country in accordance with the cooperation agreement.

<sup>vii</sup> The expression "shadow areas" has been used in French (*zones d'ombre*) in the Pilot experience report (Senior labour inspectors committee, 2018), to point out that the



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respective legislation may have some failures or may not have anticipated all possible cases.

<sup>viii</sup> Hosted by the DIRECCTEs (Regional Directorate for Enterprises, Competition, Consumption, Labour and Employment) which are the local administration in charge of labour inspection. There are eight Liaison Offices in France located in several regions and in Paris (but not in Centre Val-de-Loire region).

<sup>ix</sup> Source: [https://www.legifrance.gouv.fr/jo\\_pdf.do?id=JORFTEXT000030135724](https://www.legifrance.gouv.fr/jo_pdf.do?id=JORFTEXT000030135724)