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Cross-border inspections



Welcome to this first edition of a quarterly summary of updates regarding cross-border inspections. We encourage you to share the bulletin with relevant colleagues.



Welcome message: Cosmin Boiangiu, Executive Director of the European Labour Authority

"The European Labour Authority (ELA) plays a crucial role in promoting fair and effective labour mobility and building trust between EU Member States. In my discussions and exchanges with national authorities, I could see a readiness to participate in concerted and joint inspections. With the support of experts and inspectorates, ELA has produced several tools and resources which will become crucial in supporting EU countries to tackle challenges faced in the European labour market."

News from the Working Group

The ELA Working Group on Inspections was set up in 2020 and is composed of experts appointed by the members of the Management Board. The role of the Working Group is to provide opinions and help to develop tools and procedures related to inspections. Experts of the working group provide expertise on matters related to the legal and practical aspects of organising and conducting concerted and joint inspections, discuss results of inspections and identify further needs, and cooperate and coordinate activities with other relevant agencies or bodies.

Since February 2020, Working Group members have met in several meetings and helped to develop templates and guidelines to support concerted and joint inspections. These templates and workflows make it easier for EU countries to coordinate cross-border inspections on the ground together with ELA, and for social partners to bring cases to the attention of the Authority, namely:

- [Guidelines for concerted and joint inspections](#) (PDF, 2.8 MB)
- [Model Agreement template](#) (PDF, 393 KB)
- [Post inspection report template](#) (PDF, 403 KB)
- [Case description template](#) (docx, 34 KB)

The Working Group experts helped to pave the way for the first ELA joint pilot inspections in 2020 to test the draft tools and procedures in practice. In September 2020 during the European Platform tackling undeclared work #EU4FairWork Week of Action joint inspection together with Belgium, Lithuania and Portugal took place.

Several countries and ELA also assisted the EUROPOL-EMPACT Joint Action Day inspections in 2020 and 2021, with the goal of the inspections to tackle human trafficking and labour exploitation in the EU and to address undeclared work in the agriculture and road transport sector. You can find the press release of the action in 2021 [here](#).

The Working Group on Inspections meet on a quarterly basis and the summaries of deliberations can be found on the ELA website. Click 'read more' for more information.

[Read more](#)

Summary of main policy, political and operational developments at the EU and national level - Seasonal workers action plan

Building on topics covered by the Working Group throughout 2020, including communication policy to individuals and employers concerning the Union, and national policy measures affecting [labour mobility related to COVID-19](#) (PDF, 381 KB), the focus for 2021 will be cross-border seasonal workers.

Seasonal workers are mobile workers who retain their main place of residence in their home country and move temporarily to another EU country to carry out an activity dependent on the passing of the seasons. They are entitled to a broad set of rights, but given the temporary nature of their work, they are more vulnerable to precarious living and working conditions. The COVID-19 pandemic has amplified the existing risks for seasonal workers, especially in the agricultural sector. Additionally, employers have faced recruitment difficulties due to health measures impacting on smooth workers' mobility, which risk disrupting the ordinary flow of economic activities.

ELA's [Action Plan on Seasonal Workers](#) (PDF, 720 KB) lays down a set of initiatives to be carried out together with the European Commission, other EU agencies, EU Member States and social partners to address the challenges for seasonal workers and employers. The aim is to promote fair and safe working conditions. To facilitate this, the Action Plan is divided into two pillars: Information and services to workers and employers, and Support to the Enforcement of EU labour mobility legislation.

Under the first pillar, ELA's campaign **"Rights for all seasons"** kicked off on 15 June, with a focus on seasonal workers in the agri-food sector. The EURES network has joined the campaign on 7 July, and the European Platform tackling undeclared work will do so mid-August. Between **20 and 24 September**, a joint Week of Action – **"EU Week for Seasonal Workers"** will ensure a visibility peak throughout the EU, with events and activities organised by national administrations and social partners. More information about the campaign is available on the ELA website [here](#).

In the second pillar, ELA supports enforcement actions targeting irregularities in seasonal work through concerted and joint inspections. Financial support is available, including for reimbursement of interpretation, accommodation, and travel expenses in relation to cross-border action; translation of communication material; as well as conceptual, logistical support or legal expertise. In addition, ELA organised a webinar for national labour inspectors on cases involving seasonal workers, with a focus on the practical aspects related to investigating abuses in relation to seasonal work, such as handling cases concerning [temporary work agencies and other intermediaries](#).

ELA has already received several requests for cross-border inspections in seasonal work and other sectors. Currently, preparatory discussions between participating countries and ELA take place in the view to signing mutual agreements and agreeing on the specificities of concerted and joint action. It is planned that the first inspections will start in September.

Capacity Building Centre

The future Capacity Building Centre at ELA will provide horizontal training activities across ELA tasks. Several training sessions have already taken place (November 2020, January

and July 2021) with the materials available online to access. View the latest training material by clicking on 'read more'.

[Read more](#)

Summary of the key upcoming events relevant for inspections



Working Group on Inspections 2021

ELA plans another Working Group meeting this year (6 October). A number of topics will be addressed at this meeting, such as follow-up activities under the Action Plan and in the road transport sector, cooperation with other EU agencies and possible refinement of ELA tools and procedures.



#Rights4AllSeasons - “EU Week for Seasonal Workers” 20-24 September

ELA has launched the information campaign “Rights for all seasons”, in partnership with the European Commission, the EURES network, the European Platform tackling undeclared work, EU countries and social partners. The campaign raises awareness of seasonal workers and the employers hiring them, and provides information about existing rights, obligations and counselling services.

[Click here](#)

Summary of legal cases and law relevant to inspections



Judgment in Case C-784/19

'TEAM POWER EUROPE' EOOD v Direktor na Teritorialna direktsia na Natsionalna agentsia za prihodite -Varna

Court conclusion: A temporary-work agency established in a Member State must, for it to be considered that it ‘normally carries out its activities’ in that Member State, carry out a significant part of its activities of assigning temporary agency workers for the benefit of user undertakings established and carrying out their activities in the territory of that Member State.

Judgement of court can be accessed [here](#).

Read the full [press release here](#).



Judgment in Case C-815/18

Federatie Nederlandse Vakbeweging v Van den Bosch Transporten BV and others

Court conclusion: The directive concerning the posting of workers in the framework of the provision of services is applicable to the transnational provision of services in the road transport sector.

Judgement of court can be accessed [here](#).

Read the full [press release here](#).



Judgment in Joined Cases C-870/19 and C-871/19

Prefettura Ufficio territoriale del governo di Firenze v MI and TB

Court conclusion: Lorry, motor coach and bus drivers who, during an inspection, do not produce the record sheets for the tachograph relating to the current day and the previous 28 days are subject to a single penalty, irrespective of the number of missing record sheets

The principle that offences and penalties must be defined by law, in accordance with which citizens must be in a position to ascertain what conduct will make them criminally liable and the penalties which that conduct attracts, applies to this field.

Judgement of court can be accessed [here](#).

Read the full [press release here](#).

Get in touch



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