

Bulletin no.3. March 2022

Cross-border inspections

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Photo by the police authority in Koblenz

Welcome to the third edition of a quarterly summary of updates regarding cross-border inspections. In this edition, we put a spotlight on ELA's Framework for Action on Road Transport and concerted and joint inspections on European roads.

Concerted and Joint Inspections on European Roads

ELA's [Framework for Action on Road Transport for 2022](#) focuses on the enforcement of social aspects of legislation in the international road transport sector. Throughout this year, ELA is working in close cooperation with Member States and key enforcement stakeholders to facilitate concerted and joint inspections with a view to ensuring fair working conditions for drivers, detect irregularities and fight abuses.

In the first week of action "Truck & Bus" from 7 to 11 of February, authorities from Belgium, Germany, Croatia and Portugal organised joint inspections with other Member States. In addition, several countries (Bulgaria, Lithuania and the Netherlands) organised national inspections.

More than **200 control officers**, including 17 observers, ELA staff and several interpreters, **checked 312 vehicles with 231 drivers (workers) interviewed**. In total, inspectors discovered more than **260 suspected infringements**, out of which 159 related to general traffic related rules (exceeding vehicle load limit, technical conditions of vehicles, speeding etc) and 75 related to driving/resting times and use of tachographs. Six cases were reported as illegal employment/undeclared work and a further three related to incorrect payment of wages or other working conditions. As a result of the road inspections, 12 trucks were not permitted to continue driving and nine cases required further investigation to determine whether there was a situation of undeclared work/illegal employment or incorrect payment.

Cooperation with ROADPOL

ELA joined forces with the European Roads Policing Network (ROADPOL) to facilitate and increase cooperation between Member States' national enforcement authorities and members of ROADPOL. Hence national authorities in roadside checks included labour, social security and transport Inspectorates, customs offices, and police. Beyond deploying its own National Liaison Officers and experts on the spot, ELA coordinated and supported the participation of observers from Cyprus, Greece, Italy, Lithuania, Malta, Spain and Slovakia at roadside inspections in Germany, Belgium, Croatia and Portugal.

The main focus of the inspections was verifying compliance with the tachograph and driving and resting times rules. The Traffic Police, as usual, also checked for violations in relation to load security, speeding, technical deficiencies and driving under the influence of alcohol or drugs.

Spotlight on road check in Germany on 8 February 2022

A road check took place on 8 February on the motorway near the German city of Koblenz. ROADPOL President Volker Orben welcomed the participation of 45 colleagues, representing the German Customs Authority in Koblenz (labour inspections), police authorities and observers from Lithuania, Malta and Slovakia, including interpreters.

During the inspection, 32 trucks / drivers were checked with several irregularities found. Irregularities included 13 infringements on general traffic-related rules (exceeding vehicle

load limit, technical conditions of the vehicle, speeding, etc) and 13 infringements related to driving times and the use of tachographs. The inspections led to six trucks being found unfit to drive due to technical conditions, exceeding vehicle load limit, or cargo security. The Customs Authority are now investigating two criminal cases due to social dumping, e.g. the violation of the Minimum Wage Act, and a further case of illegal employment was found, which requires further investigation.

Sven Kilian from the police authority in Koblenz stressed that although the German authorities have worked together on joint controls during the past years, the check was the perfect opportunity to strengthen collaboration with ELA.

“It was very helpful that ELA assisted with the organisation of this joint inspection, including taking care of travel and accommodation of the observers. It is also good that responsible staff at ELA and ROADPOL get to know each other better (firstly due to our control in October close to Brussels and this second control now) and the conversations by email or in online meetings run increasingly smoothly. Everyone knows each other’s responsibilities and open questions and problems can be cleared very quickly.”

ELA’s Framework for Action on Road Transport for 2022: Enforcement & analysis

ELA is moving forward to fulfil its role to support Member States with the organisation and execution of concerted and joint checks, with the aim of enforcing EU legislation in the road transport sector.

Difficult working conditions due to the mobile nature of work in the international road transport sector and fierce competition between operators may cause numerous irregularities, some of which can only be addressed by efficient cross-border enforcement. A challenge faced by national authorities is the enforcement of national and EU legislation, which relies on strong cooperation and availability of tools. There are several actions to address this, including the development of cooperation practices which are targeted, strategic and risk assessment based; increased training for authorities; and, sharing of good practices between inspectors.

ELA has started to put provisions in place, including support and assistance in the preparation, coordination, and follow-up actions with the use of network of the Authority’s National Liaison Officers, as well as facilitating communications and exchange of information, organising joint preparatory, operational and follow-up meetings.

Focused action for 2022 includes continued support and assistance in cross-border concerted and joint inspections; translation of case specific documentation or communication material, conceptual and logistical support, and provision of legal expertise; and availability of detailed operational tools and procedures translated into all EU languages.

An overview of actions for 2022 is provided in the diagram below



Tools and procedures for concerted and joint inspections

The Working Group has developed templates and guidelines to support concerted and joint inspections. These resources clarify the roles of involved actors in launching and performing inspections, and facilitate the cooperation between national authority, social partners, and ELA.

You can find these tools in all EU official languages on the [ELA website](#)

Road transport – New rules applicable

Following Directive (EU) 2020/1057, which relates to the posting of workers, new rules have come into place as of 02 February. Member States have the obligation to provide transparent information about the remuneration of posted drivers when they are operating on their territory. Operators will be required to use the '[Road Transport posting declaration portal](#)' to declare where drivers will be posted as well as provide documents to authorities on where drivers have been posted.

ELA will continue working to ensure that posting rules are applied in a transparent and fair manner

Planned meetings of the Working group on Inspections



Webinar on genuine posting
17 March 2022

Working Group on Inspections
24-25 March 2022



Webinar (Topic tbc)

May 2022



Training seminar (Topic tbc)
June 2022



Working Group on Inspections
06 July 2022



Working Group on Inspections
9-10 November 2022

Summary of legal cases and law relevant to inspections



Posting of workers: Judgement of 10 February, Case 219/20

REQUEST for a preliminary ruling under Article 267 TFEU from the Landesverwaltungsgericht Steiermark

Court conclusion: It does not appear unreasonable that, as a result of a limitation period such as that at issue in the main proceedings, service providers established in other Member States are required to retain and to provide proof of payment of wages for a five-year period.

Article 5 of Directive 96/71, read in conjunction with Article 47 of the Charter and in the light of the general principle of EU law relating to the right to good administration, must be interpreted as not precluding national legislation providing for a five-year limitation period for failure to comply with obligations relating to the remuneration of posted workers.

The judgement can be accessed [here](#)

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