



**Decision No 3/2022
of 15 March 2022
of the Management Board
on the Memorandum of Understanding between the European Commission and the
European Labour Authority**

THE MANAGEMENT BOARD OF THE EUROPEAN LABOUR AUTHORITY,

Having regard to Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344¹ (“the founding Regulation” and “the Authority”),

Whereas:

- (1) The objective of the Authority is to contribute towards ensuring fair labour mobility across the Union and assist Member States and the Commission in the coordination of social security systems.
- (2) To ensure synergies, avoid duplications and secure effective cooperation between the Authority and the European Commission (hereinafter as “Parties”) within their respective competences, it is necessary to formalise existing cooperation between the Parties.
- (3) A framework for cooperation should be contained in the Memorandum of Understanding between the European Commission and the Authority. The Memorandum of Understanding should establish the principles and the administrative aspects of cooperation between the Parties. It should be without prejudice to existing forms and modalities of cooperation enshrined in the founding Regulation or other legislative obligations.
- (4) The Memorandum of Understanding should provide for the general framework for cooperation between the Parties, such as consultation and information exchange, arrangements related to relations of the Authority with European institutions and bodies as well as relations with third countries and international organisations.
- (5) The Memorandum of Understanding should also contain provisions on specific cooperation between the Parties in relation to the scope of the Authority’s mandate and tasks, such as free movement of workers, EURES or the posting of workers.

HAS DECIDED:

Article 1

The Management Board approves the Memorandum of Understanding between the Authority and the European Commission annexed to this decision.

¹ OJ L 186, 11.7.2019, p. 21–56

Article 2
Entry into force

This Decision shall take effect the day following its adoption.

Done at Bratislava, 15 March 2022

For the Management Board,

Tom BEVERS
Chair of the Management Board

Memorandum of Understanding
between the
the European Commission
(Directorate-General for Employment, Social Affairs and Inclusion)
and
the European Labour Authority (ELA)

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Part I - General principles of cooperation

Article 1 - Scope

1. The scope of this Memorandum of Understanding is to define the principles and the administrative aspects of cooperation between the European Commission and the European Labour Authority.
2. This Memorandum of Understanding is without prejudice to the formal aspects and modalities of cooperation, exchange of information and other obligations stated in Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 ('the founding Regulation') or any other legislative obligations.
3. For the purpose of this Memorandum of Understanding, the European Commission shall be referred to as "the Commission" and the European Labour Authority as "the Authority" and jointly referred to as "the Parties".

Article 2 - Central point of contact

1. Each Party shall establish a contact point, whose task shall be to coordinate cooperation between the Parties.
2. The Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) from the Commission is the central coordination point for the relations between the Commission and the Authority.
3. The Parties shall exchange with each other contact details of the contact points. The Parties shall inform each other in writing without undue delay of any change related to the designated contact points.
4. The contact points shall consult each other on a regular basis, in particular regarding matters falling under this Memorandum of Understanding.
5. The Parties shall also provide and keep updated a list of relevant units and responsible persons for the working areas covered by this Memorandum of Understanding and other relevant administrative tasks.
6. The Authority will send to the central points of contact in DG EMPL in charge of the Authority a copy of any relevant incoming and outgoing requests from/to other Commission services (other Directorates in DG EMPL and other Directorates-General) and third parties on matters of Commission competence, including relevant horizontal administrative matters. This is without prejudice to circumstances where the Authority has established direct working arrangements with other Commission services on specific matters (see Article 10 of this Memorandum) and the day-to-day cooperation with other Commission services and third parties at working level.

Article 3 - Coordination meetings

1. The coordination of the activities of the Commission and the Authority shall be supported, as appropriate, by bilateral meetings at various levels.
2. In addition to meetings between relevant staff of both Parties, coordination meetings shall be organised at least twice a year at Directors' level. The purpose is to communicate and discuss strategic developments in the areas pertinent to both Parties and other developments, to explore possible joint actions or synergies, and to raise any comments relevant to cooperation between the Parties.
3. The agenda of the meeting should be proposed by the Party calling the meeting and agreed by the Parties as early as possible.

Part II - Consultation and information

Article 4 - Exchange of information and consultation

1. Within the limits of their respective competences, the Parties shall inform each other about developments in fields and projects of mutual interest and exchange observations concerning such activities to enable them to promote effective cooperation. The Parties shall inform each other on the items of their respective work programmes which are of main relevance for either Party.
2. The Commission may draw on the Authority's expertise when preparing new legislative proposals, communications, implementation reports, green papers and other documents in areas relevant to the activities of the Authority and shall inform the Authority thereof in advance.
3. The Commission will ensure to keep the Authority up-to-date of its activities which are relevant for the competence of the Authority.
4. For each initiative that covers the Commission's area of competence, the Authority will consult the Commission regarding the envisaged initiatives. The Commission will also involve the Authority, where relevant, in initiatives of common interest.
5. When the Authority intends to create working groups or expert panels it will consult the Commission to create synergies with the existing structures and avoid overlaps..

Article 5 - Analytical work

1. The Parties shall inform each other and, where relevant, consult each other when conducting analytical work about the areas that fall under the remit of the founding Regulation.
2. The Parties shall inform each other about all studies commissioned in the areas of common interest. This includes information on planned studies at an early stage to avoid

possible duplications. In case similar studies are planned, the Parties will explore options to cooperate in their execution.

3. The Authority will consult the Commission prior to the publication of any studies which include any policy recommendation to facilitate the alignment of any policy messages, if necessary.

Article 6 - Exchange of administrative documents

1. The Parties shall exchange documents which are relevant for the exercise of the administrative activities of each other.
2. The Authority shall consult the Commission on administrative documents, in line with the existing legal provisions, prior to the final decision by the Management Board, in particular on:
 - a. The draft Single Programming Document;
 - b. The draft Annual Activity Report;
 - c. The draft Budget;
 - d. Reports on the progress achieved on the action plan following-up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF.
3. The Authority shall also send copies of any other documents, which the Commission requires and that are relevant for the fulfilment of the Commission's responsibilities regarding administrative issues.
4. The contact point of the Commission shall consult the relevant services of the Commission on such documents and send to the Authority their input for guidance.
5. The Commission shall send to the Authority copies of any document that is deemed by the Commission to be of interest to the Authority regarding administrative issues.

Article 7 - External communications

1. The Parties shall ensure appropriate and timely coordination of external communication activities of common interest and relevance.
2. In the event of a significant issue likely to trigger negative media coverage or any other incident related to the Authority's activities requiring crisis communication, the Authority and the Commission shall immediately inform each other and shall develop an agreed communication response.

Part III - Relations with European institutions and bodies

Article 8 - Relations with European institutions and bodies

1. The Authority shall inform the Commission when it intends to participate, at management level, in official meetings of the European Parliament, of the Council, of

the European External Action Service, of the European Economic and Social Committee, and the European Committee of the Regions and other European Institutions and Bodies.

2. When the Authority submits formal contributions, presentations and statements intended for discussion as well as formal notes to the European Parliament, to the Council, or the European External Action Service, it shall provide them also to the contact point in the Commission.

Part IV - Relations with third countries and international organisations

Article 9 - Cooperation agreements with third countries and international organisations

1. The Commission ensures the EU's external representation in line with Article 17(1) Treaty of the European Union, taking into account the Common approach on decentralized agencies of 19 July 2012. Hence, the Authority operates within its mandate and ensures that it is not seen as representing the EU position to an outside audience or as committing the EU to international obligations.
2. Representatives of the Authority shall regularly consult the Commission on external policy issues and shall take into account the EU's external policy. In line with Article 42 of the founding Regulation, the conclusion of any working arrangements with third countries and international organisations is subject to the approval of the Commission.
3. The Authority shall inform the Commission when it intends to participate, at management level, in official meetings of international organisations or with representatives of third countries.
4. The Authority shall inform the Commission when it intends to invite formal representatives of third countries and international organisations to its official meetings and activities. This is without prejudice of the participation in informal and working level meetings.
5. The Parties shall organise meetings as appropriate between the persons responsible for External Relations in the Authority and the Commission.

Part V - Roles and responsibilities

Article 10 - Roles and responsibilities related to the scope of the Authority and the Authority's tasks

1. The following specific roles and responsibilities are performed by the Parties, covering the Union acts as defined in the scope of the activities of the Authority and the tasks as defined in Articles 5 to 13 of the founding Regulation.

2. The Parties shall ensure that each other's representatives are invited to attend relevant working groups, advisory groups, committees and expert panels that cover areas that fall under the scope of the founding Regulation and the Authority's mandate.
3. The Parties shall inform each other on the agenda and documents for the meetings of the working groups, advisory groups, committees and expert panels that cover areas that fall under the scope of the founding Regulation and the Authority's mandate.

10.1 - EURES

1. The Parties shall cooperate closely, in a spirit of transparency and reciprocity, to ensure the successful implementation of EURES according to their defined and distinctive roles as indicated in the relevant legislation. The Parties will nominate a contact person for EURES at management and operational level.
2. Any request received by the Authority that contains overlaps of competence with the Commission or requires additional legal interpretation shall be directed to the Commission. The Commission will act in the same spirit to cover the Authority's areas of competence.
3. The Authority will assist the Commission with periodical data and reports related to the EURES Network and the portal, to facilitate the assessment of the implementation of the EURES legislative framework.
4. The Commission shall inform the Authority regarding any foreseen evaluation or legislative initiative related to the EURES Regulation. The Commission will to the extent possible involve the Authority in the periodical EURES evaluations and inform about preliminary findings.
5. The Authority will consult the Commission a-priori on the agenda and documents for the meetings related to the governance of the EURES Network.
6. The parties shall set up a EURES Portal IT Steering Committee. This Committee shall be composed of representatives of the relevant units in DG EMPL in charge of EURES and the Authority; it shall meet at least twice a year. The EURES Portal IT Steering Committee shall have the mandate to agree in consensus on the future IT development of the EURES portal, including the IT security plan, and coordinate its implementation.

10.2 - Tackling Undeclared Work

1. A yearly meeting will be organised at operational level to identify priority areas for cooperation and exchange information on upcoming activities (including on financial matters).
2. The Authority may consult the Commission regarding the draft work programme of its working group 'European Platform to enhance cooperation in tackling undeclared work' ('the Platform').

3. The Commission may request the Authority to provide information, analytical support and expertise about undeclared work in different Member States.
4. The Parties may request each other's assistance in their activities with regard to undeclared work.
5. The Commission may suggest points for the agenda of Platform meetings.

10.3 - Posting of Workers

1. The Parties will keep each other informed regarding activities that are planned to be carried out under different tasks in the area of posting of workers in order to create synergies and to ensure coherence between the work of the Parties, to avoid overlaps and to suggest possible approaches to be taken.
2. In its work to contribute and facilitate the application and enforcement of Union law within the scope of its Regulation, the Authority shall request the Commission's input regarding cases/points that require an interpretative opinion on the EU legal framework on the posting of workers.
3. While supporting Member States regarding the information provision on the single official national websites, established in accordance with Directive 2014/67/EU, the Authority will consult the Commission on the procedural and legal aspects of its activities.
4. The Authority will support the Commission in its work in the area of posting of workers by providing and/or gathering information and analytical support, also on ad hoc basis.

10.4 - Free Movement of Workers

1. When the Commission organizes meetings with the bodies on free movement for workers designated under the Directive 2014/54/EU, it shall inform the Authority beforehand. The purpose of these meetings is to exchange on strategic orientations of the bodies, inform about recent policy developments, present good practice, and establish more stable cooperation mechanisms, etc. with a view to improve the service offer of the bodies.
2. In case the Parties involve the bodies on free movement in labour mobility communication campaigns, they shall coordinate beforehand.
3. In its work to contribute and facilitate the application and enforcement of Union law within the scope of its Regulation, the Authority shall consult the Commission regarding cases that require an interpretative opinion – on the EU legal framework on the free movement of workers.
4. The Commission may request the assistance of the Authority in gathering information from Member States.

10.5 - Social Security Coordination

1. The Parties will consult each other at least once a year regarding the activities that are planned to be carried out under different tasks in the area of social security coordination in order to create synergies and to ensure coherence between their respective responsibilities to avoid overlaps and to suggest possible approaches.
2. The cooperation agreement between the Authority and the Administrative Commission for the Coordination of Social Security Systems regulates the relations between the bodies regarding good cooperation, coordination of the activities and to avoidance of any duplication in cases of mediation.
3. In its work to contribute and facilitate the application and enforcement of Union law within the scope of its founding Regulation, the Authority shall consult the Commission regarding cases that require an interpretative opinion – on the EU legal framework on social security coordination.
4. The Commission may request the assistance of the Authority in gathering information from Member States.

10.6 - Cooperation and exchange of information

1. The Authority shall promote, share and contribute to disseminating good practices on cooperation and exchange of information between Member States, while working closely with the Commission to ensure synergies with the existing structures.
2. The Commission will inform the Authority regarding the process of implementation of the Single Digital Gateway. The Authority will consult the Commission regarding the process of implementation of the Single Digital Gateway provisions.
3. When necessary, the Authority in cooperation with the Commission will carry out regular updates of the Internal Market Information System's questionnaires in the posting field based on the needs of Member States, developments at EU level and taking into account the need for stability for undisturbed collection of data.
4. The Authority in cooperation with the Commission will carry out trainings to improve and increase the use of the Internal Market Information System in the posting field for the relevant persons in national competent authorities.

10.7 - Concerted and joint inspections

1. The Authority will provide regular updates to the Commission in relation to its support to concerted and joint inspections.
2. In the case that a formal decision has been taken by the Authority's Executive Director on whether to propose a case to the authorities of different Member States, the overall information will be sent to the Commission.

3. A summary of the results of the concerted and joined inspections supported by the Authority can also be sent to the Commission.
4. In line with Article 9(9) of the founding Regulation, in the event that the Authority, in the course of concerted or joint inspections, or in the course of any of its activities, becomes aware of suspected irregularities in the application of Union law, it may report those suspected irregularities, where appropriate, to the Member State concerned and to the Commission.

10.8 - Mediation

1. The Authority shall inform the Commission regarding the cases brought forward for mediation. If the cases relate to the specific areas of competence of the Commission, the case will be followed closely with the experts from the Commission.
2. In line with Article 13(13) of the founding Regulation, the Authority shall report to the Commission twice a year with regard to the outcome of the mediation cases it has conducted and about cases which were not pursued.

10.9 - Road Transport

1. The Authority will support the Commission in ensuring effective application and enforcement of Union law related to EU social and labour mobility rules in road transport, in particular the rules on driving and rest times, on posting of drivers, on engagement in occupation of road transport operator and in the fight against letterbox companies.
2. The Commission may request the assistance of the Authority in gathering information from Member States linked to the Union law related to EU social and labour mobility rules in road transport.
3. The Commission can request the Authority's support when preparing implementation reports and other documents in area of illicit business and employment practices of road transport operators.

10.10 - SOLVIT

1. Upon request by the Authority, the Commission SOLVIT coordination team may refer information concerning SOLVIT cases (without personal data) related to EU labour mobility, reflecting issues and challenges in the EU labour market.
2. The cooperation between the Parties concerning the referral of cases for mediation is organised in the cooperation agreement between the Authority and SOLVIT.

10.11 - The Internal Market Information System (IMI)

1. As provided for in Article 7(3) of the founding Regulation, the Authority shall promote the use of electronic tools and procedures for message exchange between national authorities, including the IMI system. In addition, the Annex of the founding Regulation sets out that in supporting the objectives of the Authority in tackling undeclared work, the Platform shall seek, in particular, to set up a system of information exchange for administrative cooperation using a specific module on undeclared work under the IMI system.

Article 11 - Exchange of knowledge and good practices

1. The Parties recognise that it is of mutual interest to exchange general information and expertise relating to their respective fields of competence, including in the context of trainings, conferences, and workshops.
2. The Parties shall invite each other to relevant activities they organise in the field of professional training, seminars and workshops that may be of common interest. The Parties shall also exchange good practices, which would benefit the other Party in the fulfilment of its mandate.

Article 12 - Other legal acts/areas pertinent to the work of the Authority

1. The Parties shall also cooperate on any other matters relevant to their work.

Part VI - Resources

Article 13 - Management of financial transfers

1. All modalities concerning financial transfers from the Commission to the Authority are to be laid down in the separate Memorandum of Understanding for the Management of Financial Transfers between the Parties.

Article 14 – Framework Contracts

1. Both Parties will open framework contracts put in place in the fields of common interest, in particular for EURES, to ensure mutual use.

Article 15 - Resources

1. The Authority shall keep the Commission informed on the development of its financial and human resources policies.
2. The Authority shall provide explanations if it decides not to fully take into account the Commission's opinion on the human and financial resource programming included in the Single Programming Document.

Part VII - Final Provisions

Article 16 - Amendment

1. Any amendment of this Memorandum of Understanding requires the mutual consent of the Parties and should be done in writing.

Article 17 - Termination

1. Each Party may terminate this Memorandum of Understanding by giving six months' prior written notice to the other Party at any time. If the Memorandum of Understanding is terminated by either Party, steps should be taken to ensure that the termination does not affect any prior obligation, project or activity already in progress.
2. Termination of this Memorandum of Understanding shall not affect obligations regarding cooperation and exchange of information between the Parties laid down in other agreements concluded by the Parties.

Article 18 - Entry into force

1. This Memorandum of Understanding shall come into effect on the date it has been signed by both Parties and shall continue to have effect until terminated by either of them.