

**Bulletin No 4
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Cross-border inspections

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Concerted and Joint Inspection in Croatia, during the “Truck & Bus” Action Week (13-17 June 2022) ©ELA

Welcome to the fourth edition of a quarterly summary of updates regarding cross-border inspections. In this edition, we put a spotlight on concerted and joint inspections on European roads and Cross border enforcement action against labour exploitation.

Concerted and Joint Inspections on Road Transport in June 2022

Under the Framework for Action on Road Transport for 2022, ELA carried out the second week of action in 2022, in close cooperation with the European Roads Policing Network (ROADPOL), Member States and enforcement stakeholders. A number of concerted and joint inspections aimed at ensuring fair working conditions for drivers, detect irregularities and fight abuses.

The action week in June consisted of 8 inspections and involved 17 Member States. Roadside checks were carried out in Bulgaria, Croatia, Italy, Lithuania, the Netherlands, Spain and two in France (<https://www.ela.europa.eu/en/news/truck-bus-action-week-inspections-european-roads>). Several national inspections took place during the week of action.

A total of over 260 vehicles were checked and more than 110 suspected irregularities were discovered during ELA supported inspections. The majority of the irregularities concerned the use of tachograph, including driving and resting time. Other irregularities were related to the compliance with road traffic rules, technical requirements, roadworthiness of the vehicle, load security, lack of technical control, drivers with no driving license. Several trucks were sent for a more detailed roadworthiness test at a technical inspection station, one truck was not allowed to continue driving. Irregularities in relation to posted workers and possible bogus self-employment were also detected; several situations will be further investigated.

ELA and the ROADPOL coordinated and supported the organisation of the inspections which included the distribution of flyers to drivers with information about driving and resting times and posting (Mobility Package - lex specialis). ELA also published video after the week of action with all the results and involved countries.

Cross border enforcement action against labour exploitation

In the fight against serious and organised crime, EMPACT aims to disrupt criminal networks engaged in trafficking in human beings for all forms of exploitation, including labour exploitation.

ELA is part of the EMPACT activities to enhance the cooperation between EUROPOL, European police forces (specialised in trafficking in human beings), labour inspectorates and other national authorities.

Joint actions and multidisciplinary approaches to the detection and fight against labour exploitation in high-risk economic sectors across the EU among others are also aimed to protect more than 12 million citizens who fled Ukraine, mostly women and children who may be vulnerable to abuse and different human and labour rights violations. The European Commission and EU agencies offer their support to Member States' actions oriented towards raising awareness and protecting the rights of Ukrainian citizens, but also to those focused on preventing, investigating and prosecuting any instances of labour exploitation.

At one of the preparatory meetings, Mr Cosmin Boiangiu, ELA's Executive Director, said *"we look forward to cooperating with EUROPOL and national authorities within EMPACT. We need to join forces in the fight against labour exploitation, especially to protect the victims. It is an important deterrent to anyone who is involved in such illicit activities"*.

ELA has supported several cross-border inspections during the Joint Action Days in September in agriculture field.

Planned meetings



28 September (online)

Digital platform for operational information exchange



4 October (Budapest)

ILO ELA workshop Reducing the risks of labour exploitation, trafficking in human beings, forced labour and undeclared work faced by the Ukrainian displaced persons

5 October (online)

Workshop on passengers transport

19-21 October (Madrid)

Training on CJIs



9-10 November 2022 (Bratislava)

Working Group on inspections meeting

14 November (online)

Sector specific training (the return of the truck, driving times and rest periods (mainly focused on weekly rest outside the cabin))



December

Workshop on document fraud (tbc)

Summary of legal cases and law relevant to inspections



ECJ Judgement: Social Security – Concept of home base

Summary: Case C-33-21 - Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL) - Istituto nazionale della previdenza sociale (INPS) v Ryanair DAC

Court conclusion: the Court extensively interpreted the concept of “home base” for determining the Social Security applicable legislation to flight or cabin workers that are employed in the territory of two or more Member States. In this case, those premises intended to be used by the Ryanair staff located in Orio al Serio airport and where the workers in question started and completed their day and had to reside within one hour, must be regarded as constituting a ‘home base’ within the meaning of Article 11(5) of Regulation No 883/2004 as amended in 2012.

The social security legislation applicable to the flight and cabin crew of an airline, established in a Member State, which crew is not covered by E101 certificates and which work for 45 minutes per day in premises intended to be used by staff, known as the ‘crew room’, which that airline has in the territory of another Member State in which that flight and cabin crew reside and, which for the remaining working time, are on board that airline’s aircraft is the legislation of the latter Member State.

The judgement can be accessed [here](#).



National cases: PDA1 forms and declaration on DIMONA

In a Belgian case (Hof van Cassatie van België, Case P.21.1232.N FONAK EOOD), the Court of Cassation ruled that Dimona declaration is not only intended to ensure affiliation to a social security system and compliance with the relevant regulations, but also an instrument to ensure compliance with the terms and conditions of employment laid down in labour law.

A1 Certificates issued by the competent foreign authority, do not exclude the obligation to make the due Dimona declaration.

The judgement can be accessed [here](#).

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