



Bilateral and multilateral agreements in the area of EU labour mobility

**Final report
March 2025**

Luxembourg: Publications Office of the European Union, 2025

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This report was authored by Harald Hauben, Willem Waeyaert and Sofia Falcone (Eftheia BV), with the valuable input and support of national experts and interviewees in the countries covered, the National Liaison Officers at the European Labour Authority, the members of the expert working group established for the sake of this report and Eurodétachement. This report was compiled exclusively by the authors in the context of a contract between the European Labour Authority and a consortium composed of Eftheia BV and Milieu Consulting SRL, awarded following a tender procedure. The document was prepared for the European Labour Authority; however, the opinions expressed are those of the authors only and should not be considered as representative of the European Labour Authority's official position.

Print	ISBN 978-92-9401-857-1	doi:10.2883/4797399	HP-01-24-000-EN-C
PDF	ISBN 978-92-9401-856-4	doi:10.2883/2910383	HP-01-24-000-EN-N

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Executive summary

This analytical report is intended to analyse the conclusion and implementation of bilateral and multilateral agreements in the area of labour mobility, with a specific focus on those agreements related to the posting of workers, with a view to identifying possible complementarities between the agreements and the activities of the European Labour Authority (ELA).

The report contributes to the ELA's mandate to facilitate and enhance cooperation between EU Member States in the area of labour mobility, in the spirit of Article 7 of its founding regulation, Regulation (EU) 2019/1149.

The **high-level goals of the report** are:

- to provide an overview of existing agreements that are still in force (including an overview of provisions that are common to different agreements), which was to result in a compendium of agreements, including a broad description of these in English;
- to identify **elements** of the agreements that have had the **strongest impact in practice**;
- to identify **practices** by the contracting Member States or arrangements set out under the agreements themselves that have been **conducive to the successful implementation** of the agreements and the achievement of the intended results;
- to show the **complementarities** of these agreements **with the existing legal framework and with existing tools** related to EU labour mobility, for instance the Internal Market Information System (IMI);
- to discuss **how the ELA could support** and complement the implementation of these agreements.

Chapter 1 introduces the report and defines its **scope**: bilateral and multilateral agreements concluded between Member States on the intra-EU labour mobility of professional active persons of working age, with a particular focus on posting. External labour mobility and migration, for example between Member States and third countries, was not part of the report's remit.

Chapter 2 provides a detailed description of the **typology of international cooperation agreements**, focusing specifically on labour mobility agreements. It provides a foundational understanding of the legal landscape and the context within which such agreements operate. It also covers the different **EU cooperation obligations related to labour mobility**. It establishes the legal background for subsequent analysis by drawing attention to the legal intricacies and obligations underpinning cooperation agreements in the area of labour mobility within the EU.

The terms 'treaty' and '(international) agreement' are often used as generic terms referring to a wide range of international agreements for which different names are used, such as conventions, agreements, arrangements, covenants, charters, protocols and acts ⁽¹⁾. The meaning of the terms used in international practice is **variable** and there is **no established nomenclature** ⁽²⁾. The concept of an international agreement is broader than that of a treaty, which is generally regulated by special international legislation. These observations are later on confirmed in Section 4.2, as it is clear that Member States have used **different terms in order to refer to the international instruments by which they have established rights and obligations among themselves** in the area of EU labour mobility.

In its narrower meaning, a treaty refers to a binding formal and written agreement by means of which states and/or international organisations (subjects of international law) establish mutual rights and obligations. However, whereas international treaties and agreements in the strict sense of the word are binding upon the states

⁽¹⁾ Definitions provided in the *Encyclopaedia Britannica* (<https://www.britannica.com/topic/treaty>).

⁽²⁾ Definitions of key terms used in the United Nations Treaty Collection are available on its website (https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml).

as contracting parties and are governed under international law, international agreements in a wider sense of the term can also be concluded by parliaments or governments (at the different levels of administration), government departments (ministries, regional or local executive branches), public administration bodies, executive agencies or enforcement agencies, with a view to establishing cooperation of a mere administrative or technical nature or to exchange information or data. Such international agreements' material scope is bound by the constitutional or legal competence that has been attributed to the contracting parties in their respective countries. International agreements in this broader meaning hence refer to **less formal agreements** than treaties and they deal with a narrower range of subject matters. Such agreements are most often not subject to a ratification or accession process and/or are often not deposited. They may also have different names, such as 'protocol', 'memorandum of understanding' or 'joint declaration'. These agreements often establish (technical or administrative) cooperation arrangements or information exchanges between government departments or executive branches of government in specific policy domains.

Chapter 3 provides a comprehensive **literature review on the challenges of transnational cooperation agreements in the area of labour mobility** in particular, with a specific focus on the use of cooperation agreements to counter many of these challenges. This is followed by a review of academic literature on the different factors leading to the successful conclusion and implementation of these agreements.

Overall, however, there is very little literature or research on agreements that focus specifically on the posting of workers in the context of the free provision of services. In general, the available literature does reveal that (transnational) cooperation is challenging for a number of reasons (see, for example, van Hoek and Houwerzijl, 2011; Hartlapp, 2014; Čaněk et al., 2018; Dvorak and Civinskas, 2018; Ryszka, 2019). Bilateral and multilateral cooperation agreements between Member States are one potential tool that has been identified in the literature to combat many of the challenges encountered in the transnational enforcement of posting provisions. However, notwithstanding the importance of said agreements in academic literature and policy publications, specific and detailed information on the structure and contents of these bilateral cooperation agreements in the area of posting and challenges and success factors related to their design, implementation and evaluation is scarce.

Section 3.3 further pinpoints the scope of the report by examining international agreements on labour mobility in the context of the EU. More precisely, based on an analysis of relevant EU law, **bilateral agreements (in the wider sense of the term) that deal with EU labour mobility** may be concluded between Member States, with a view to achieving the following main objectives:

- **to deepen the mutual rights and obligations** between Member States beyond what is regulated at the EU level (e.g. Article 350 of the Treaty on the Functioning of the European Union on the Benelux Treaty);
- **to deviate from EU legislation when this is explicitly allowed** (e.g. Article 16 of Regulation (EC) No 883/2004 (basic social security coordination regulation));
- **to complement the EU treaties / EU legislation on labour mobility at more technical levels or through administrative cooperation** (agreements in the broader sense of the term; e.g. Article 21, paragraphs 2 and 3, of Directive 2014/67/EU (the enforcement directive)).

The third category of bilateral agreements aims to **complement EU labour mobility legislation**. Governmental and other public (but also private) bodies from Member States have concluded various types of agreements that are relevant to EU labour mobility with counterparts from other Member States to strengthen mutual cooperation. These agreements have been named in various ways (e.g. agreements, cooperation agreements, arrangements, memoranda of understanding, protocols, letters of intent, joint declarations). The scope of this type of agreement is by definition limited and constrained by the competence and mandate that the concluding parties have within their national constitutional and legislative contexts. This report – on bilateral and multilateral agreements concluded between public institutions from Member States in the area of EU labour mobility, with a focus on posting – deals primarily with this third type of agreement.

Chapter 4 focuses on the **collection and analysis of the bilateral and multilateral agreements** within the scope of the report. The identification and collection of relevant agreements proved to be a difficult exercise. At present, there is no unique or other EU depository for the bilateral agreements of focus, and those collected are neither systematically nor centrally registered, nor are they published, although some attempts to collect them have already been made.

In light of the difficulties encountered during the initial phase of this research, the study team relied on a number of sources, which were indispensable for collecting as many concluded agreements as possible. These included the following: (1) the support of the National Liaison Officers (NLOs) at the ELA; (2) the Eurodétachement project; (3) the European Commission report *Fraud and error in the field of EU social security coordination*; (4) the ELA's ad hoc request 'Overview of national legislation foreseeing a legal basis to share inspection-related information with other authorities'; (5) a survey circulated among 21 Member States; and (6) semi-structured interviews on a selection of cooperation agreements (selected on the basis of the findings of an initial analysis based solely on the texts collected from the first four sources).

The combined effort of the study team members led to the identification of 98 agreements in total; however, for 23 of these agreements, it proved impossible to find the texts. Additionally, **only 60 of the agreements identified related directly to the subject matter of this report, namely the posting of workers in the context of the free provision of services** ⁽³⁾.

These 60 agreements collected were subject to a desk analysis in terms of their key features, most notably (1) the Member States involved; (2) the types of contracting parties; (3) the signatory date / date of entry into force; (4) the thematic scope; (5) the level of detail; (6) the types of cooperation measures covered; and (7) the monitoring and review clauses.

Chapter 5 presents the **main findings of the empirical analysis**, utilising two main methodological tools:

- a survey of ELA National Liaison Officers to obtain complementary information on the agreements that had been collected, with a view to obtaining additional agreements;
- semi-structured interviews and the consultation of relevant stakeholders at the national level based on a predefined selection of cooperation agreements.

A full description of the methodology for both components can be found in the Annex to this report.

The primary objective of the empirical analysis was **to identify practices** by the contracting Member States or **arrangements** set out under the agreements themselves **that are conducive to successful implementation** of the agreement and the achievement of the intended results. The analysis sought to identify the principal factors that facilitated the conclusion and/or negotiation of cooperation agreements, alongside examining the challenges that hindered their conclusion. Subsequently, the different factors influencing effective implementation of the agreements were identified.

Overall, the analysis identified **the following major drivers behind the conclusion of these agreements**: (1) previous interinstitutional cooperation; (2) professional networks and contacts; (3) geographical proximity; (4) the flow of incoming and/or outgoing posted workers between countries; (5) similar national regulations and/or working methods; (6) a shared working language; and (7) political priorities.

In terms of **challenges** encountered during negotiations, the empirical analysis did not reveal many. Nonetheless, the stakeholders interviewed did identify some challenges, which relate to (1) the scope of the cooperation measures envisaged; (2) differences in institutional set-ups; and (3) the lack of human resources.

Next, the findings suggested at least **four facilitating factors that played key roles in the effective and efficient implementation of the cooperation measures** included in the cooperation agreements. These are the following: (1) a relationship of mutual trust between the enforcement authorities/agencies; (2) the establishment of a joint body or designation of local contact points; (3) linguistic proximity; and (4) the existence of an external supporting network.

It was found that the absence of one or more of these factors severely complicates the implementation of the cooperation agreement. Additionally, the applied research made clear that Member States' authorities encounter several other challenges when enforcing the cooperation agreements: (1) the complexity of the labour mobility rules; (2) the lack of (human and financial) resources; (3) differences in the national regulatory

⁽³⁾ See Table 2, regarding the 60 agreements collected, on page page 35.

and organisational environments; (4) the enforcement of administrative penalties and fines; (5) the lack of legally binding obligations; (6) language barriers; (7) changed political priorities; and (8) data protection issues.

As to the **role of the ELA**, the consensus during the semi-structured interviews was that the ELA has had a positive impact on the work of inspectorates in the EU and offers complementary value alongside bilateral and multilateral relations between Member States. Several respondents from the Member States stated that, although targeted initiatives (i.e. **bilateral and multilateral agreements**) that allow for tailoring to specific regional complexities and features are still vital in this area, the fact that the ELA can provide a bird's-eye view across the EU-27 is particularly important.

Additionally, the findings of the survey and semi-structured interviews revealed that many Member States see a (future) role for the ELA in the negotiation and/or implementation of cooperation agreements in the field of labour mobility. The following suggestions were offered: (1) (continued) support from the ELA in the implementation of the cooperation measures mentioned in the agreements; (2) concerted and joint inspections, information-sharing and awareness-raising campaigns, staff exchanges and the organisation of seminars; (3) the enhanced commitment of a wide range of stakeholders (e.g. trade unions); (4) the creation of an inventory on the regulatory framework as well as templates for cooperation agreements; and (5) coordination between contracting parties.

Finally, the EU legal framework on labour mobility, including the related posting and social security *acquis*, has evolved greatly over time. This includes a wide array of cooperation obligations and (digital) tools to exchange information (e.g. the IMI) that have now been established through EU rules and obligations. Added to that, the presence of well-functioning transnational networks in the area of labour mobility (e.g. the ELA, the Senior Labour Inspectors Committee, Eurodétachement) is not to be underestimated. Thus, a central question that needed to be answered is how this has affected the usefulness of cooperation agreements.

A majority of the interviewees noted that **cooperation agreements in this field still provide added value to the existing EU *acquis* in the field of labour mobility**. In particular, the following two elements emerged consistently.

- Bilateral and multilateral agreements allow Member States to set more targeted objectives and achieve practical results that could not be achieved if Member States were to solely implement the Enforcement Directive or exclusively exchange information through the IMI.
- Bilateral and multilateral agreements allow Member States to align priorities at a practical level and provide direct motivation to cooperate with each other in an effective and efficient way, and thus also to make better use of the international cooperation networks in which they find themselves (e.g. the Senior Labour Inspectors Committee, Eurodétachement, the ELA).

Finally, Chapter 6 summarises the **main findings of each phase of the study** (Section 6.1). It synthesises key insights and operational implications derived from the comprehensive analysis of bilateral and multilateral cooperation agreements in the area of EU labour mobility. This structured approach ensures a rigorous and methodical examination of the legal, empirical and operational dimensions of labour mobility agreements within the EU, offering valuable insights for policymakers and stakeholders involved in shaping labour mobility policies and practices. On the one hand, the conclusions derived from the desk analysis (Section 6.1.1) primarily pertain to the form and structure of the bilateral agreements, aligning with insights from a literature review. On the other hand, the conclusions from the empirical analysis (Section 6.1.2) offer a deeper understanding of the factors that facilitate or hinder the negotiation and conclusion of agreements in the field of EU labour mobility.

Integrating the results from both research phases allowed the **formulation of operational conclusions at the EU and national levels** (Section 6.2). The following table provides a summary of the operational conclusions formulated in the final chapter of this report.

Summary of the operational conclusions	
(1)	Actions at the EU level
(a)	Play a coordinating and facilitating role during the preparation, implementation and review of the cooperation agreements.
	<p>Operational conclusion 1. More extensive use of the ELA National Liaison Officers could be envisaged in order to facilitate the coordination of and provision of assistance in the negotiation, implementation and evaluation of bilateral cooperation agreements between Member States. In addition, Member States could seek the technical and logistical support offered by the ELA to organise joint meetings and explore deepened bilateral relations.</p> <p>Operational conclusion 2. Member States' activities under the bilateral agreements in the area of labour mobility could be further supported by collecting additional information on multiannual implementation plans and by means of the structured allocation of resources in support of them.</p>
(b)	Create an up-to-date inventory of the existing cooperation agreements and of model templates for bilateral cooperation agreements.
	<p>Operational conclusion 3. An online database could be created containing the existing bilateral and multilateral cooperation agreements between Member States in the field of EU labour mobility, which should be updated regularly. The translation of the texts into different EU languages could also be considered.</p> <p>Operational conclusion 4. A model bilateral or multilateral agreement could be developed for future use by the Member States when considering new agreements, albeit leaving space for sufficient customisation depending on the national context of the concluding Member States. The development of this model agreement could in part rely on the glossary of relevant concepts and terminology developed by the ELA.</p>
(c)	Improve the understanding and usage of the IMI posting modules among all enforcement agencies in Member States.
	<p>Operational conclusion 5. Activities at the EU level to improve the understanding and usage of the IMI posting modules among all enforcement agencies of Member States should be continued, including through the possibility of reporting on the exchanges taking place through the IMI.</p>
(2)	Actions at the national level
(a)	Enhance the commitment of a wider range of enforcement authorities.
	<p>Operational conclusion 6. To enhance the effectiveness of bilateral cooperation agreements between Member States, the involvement of a broader range of enforcement authorities could be explored. This should include not only labour inspectorates but also tax authorities, social security institutions, enforcement authorities in charge of international road transport rules and social partners.</p> <p>Operational conclusion 7. Targeted information actions aimed at reaching out to social partners on either side contribute to effective compliance in practice by employers and workers.</p>
(b)	Include key dimensions in view of the effective implementation of cooperation agreements.
	<p>Operational conclusion 8. When preparing for the conclusion of new bilateral agreements, it is advisable to consider the list of critical provisions that contribute to more effective implementation.</p> <p>Operational conclusion 9. Establish joint steering committees under the bilateral and multilateral agreements that are responsible for adopting and monitoring the annual work programmes and that meet at least once annually and use carefully prepared agendas.</p>
(c)	Promote the importance of multiannual operational plans.
	<p>Operational conclusion 10. Multiannual operational action plans or work programmes, designed by the enforcement authorities responsible for implementing the bilateral and multilateral agreements and allocating the necessary budgetary and human resources, are indispensable and a guarantee of more effective implementation. Consideration could be given to sharing these multiannual work programmes with the ELA in order to improve the interconnectedness between the work programmes concluded under the agreements and the ELA's own multiannual planning and work programmes, thus optimising the available resources.</p>

1. Introduction

This report is the result of a study that was commissioned by the European Labour Authority (ELA) and carried out from November 2023 to May 2024.

The main objectives of the research were (1) to identify and collect bilateral/multilateral agreements on EU labour mobility concluded between EU Member States (with a focus on those that concern the posting of workers in the context of the free provision of services), and (2) to analyse these agreements with a view to:

- identifying the elements of the agreements that had the strongest impact in practice;
- identifying practices by the contracting Member States or arrangements established under the agreements themselves that are conducive to the successful implementation of the agreements and the achievement of the intended results;
- showing the complementarities of these agreements with the existing legal framework and with existing policies related to EU labour mobility, for instance the Internal Market Information System (IMI);
- emphasising how the ELA can support and complement the implementation of these agreements.

In order to achieve the objectives set out above, the report builds on a combination of desk research and fieldwork. The **methodology** underpinning the study allowed the research team to do the following.

- **Identify and collect the relevant bilateral agreements on EU labour mobility and present them in a structured Excel database.** This required (1) prior delineation of the thematic scope of the agreements, (2) access to the original texts of the agreements in electronic format and (3) a decision on the relevance of the agreements for inclusion in the scope of this report.
- **Analyse and evaluate the agreements in terms of impact and outcomes based on desk research and applied empirical research.** Based on the results of the analysis, this report identifies general principles that underlie such agreements as well as the (added) value of such agreements to the existing legal *acquis*.

However, the theoretical and textual (legal) interpretation of the agreements collected does not allow for an assessment of the impacts and outcomes of these agreements in practice. These methodological challenges (i.e. **textual analysis based on a sample of written agreements does not lead to adequate answers to the research questions**) meant that the research team had to rely on a mixed-methods approach, with desk research complemented by additional targeted fieldwork. The empirical research is based on three key components:

- (1) a survey of ELA national liaison officers (NLOs) to obtain complementary information on the bilateral agreements collected, with a view to obtaining additional agreements;
- (2) semi-structured interviews and consultation of relevant stakeholders at the national level going into depth on 10 selected cooperation agreements;
- (3) the organisation of two online meetings of the Expert Group of the Report on Labour Mobility Agreements (Expert Working Group) to assist the research team in the development of the methodology and the validation of the results.

As to the exact scope of this study, the focus was on **intra-EU cross-border mobility, thus excluding external migration or mobility between Member States and third countries**. Intra-EU cross-border mobility covers migrant workers who subsequently or simultaneously work in different Member States, either on their own initiative or through intermediaries. The latter can be temporary work agencies or employing companies that post their workers for a temporary period to another state as part of an intra-group arrangement or through a

contract for service provision concluded with an entity established in the host country. In conclusion, bilateral agreements concluded by Member States with third countries are not part of the scope of this study.

Intra-EU cross-border mobility and the posting of workers have both **social security** and **labour law dimensions** and mandatory EU legislation must be applied (EU social security coordination rules and free movement of workers and posting rules, including those on international road transport). These dimensions were considered when searching for and identifying the relevant bilateral agreements.

A third dimension, namely **direct taxation of the personal or professional income of mobile individuals, including of the solo self-employed**, has not been taken into account in this report, as this falls outside the ELA's mandate under Regulation (EU) 2019/1149. The direct taxation of (the personal and corporate income of) solo self-employed individuals (and the bilateral agreements dealing with the subject) remains nevertheless an important area to consider in additional research. Taxation and the application of labour and social security legislation in cross-border contexts are interconnected. The prevalence of bogus self-employment, fraudulent posting constructions and social security fraud and error represent growing challenges. National enforcement agencies are confronted with these issues in the enforcement of the mandatory EU social security coordination and posting rules, including the effective application of the terms and conditions of employment in the hosting state in cases of posting.

Only the intra-EU cross-border mobility of **professionally active persons of working age regardless of their employment status** was considered. Not taken up into the remit of the study are pensioners, students, tourists and other categories, even though some of the bilateral agreements on labour mobility may have relevance to them. This implies that bilateral agreements on social security coordination that **focus only on exchange of information on insurance periods, benefit amounts, certificates of life and the like are in principle not included in the analytical work**.

The **bilateral/multilateral agreements on EU labour mobility** in focus are not centrally deposited, registered or published. Many official EU reports and publications refer to the existence of relevant bilateral agreements ⁽⁴⁾ ⁽⁵⁾, but there is no comprehensive overview at the EU level. There is no publicly accessible central online database at the EU level by means of which the texts of the bilateral agreements in force can be consulted. It is noteworthy in this regard that some EU legislation, such as Directive 2014/67/EU ⁽⁶⁾ (the enforcement directive) (Article 21), obliges Member States to inform the European Commission of the conclusion of bilateral agreements and to make them 'generally available'. This obligation also applies to bilateral agreements concluded on the basis of Article 16 of Regulation (EC) No 883/2004 ⁽⁷⁾.

The research team identified 60 **cooperation agreements relevant to the scope of this report (posting) in the course of the research**. These bilateral agreements formed the basis for a comparison of the scope and content specified in their legal texts during the initial desk research.

Chapter 2 sets the stage for a detailed examination of the typology of international cooperation agreements, focusing specifically on labour mobility agreements. This introduction provides a foundational understanding of the legal landscape and the context within which such agreements operate. Section 2.2 covers the different EU cooperation obligations related to labour mobility. This section establishes the framework for subsequent analysis by drawing attention to the legal intricacies and obligations underpinning cooperation agreements in the area of labour mobility within the EU.

⁽⁴⁾ The national [Senior Labour Inspectors Committee e-handbooks](#) (2023) refer to the existence of some 86 bilateral agreements concerned with occupational safety and health.

⁽⁵⁾ European Commission (2019), Report on the application and implementation of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) 1024/2012 on administrative co-operation through the Internal Market Information System, COM(2019) 426 final of 25 September 2019, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:426:FIN>.

⁽⁶⁾ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (OJ L 159, 28.5.2014, p. 11, <https://eur-lex.europa.eu/eli/dir/2014/67/oj>).

⁽⁷⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004R0883>).

Chapter 3 provides the findings of a literature review on the challenges of transnational cooperation agreements in the area of labour mobility, with a specific focus on the use of cooperation agreements to counter many of these challenges. This is followed by a literature review of the different factors leading to the successful conclusion and implementation of these agreements.

Chapter 4 provides an overview of the cooperation agreements in the area of labour mobility collected by the research team. The 60 agreements were subject to the textual analysis of their key features.

Chapter 5 provides the results of an empirical analysis utilising methodological tools such as surveys and semi-structured interviews to gather insights into success factors for and challenges to the negotiation and implementation of these cooperation agreements. Findings from this analysis shed light on the effectiveness and complementarity of cooperation agreements within the broader EU legal framework and the ELA.

Chapter 6 concludes with operational conclusions, synthesising key insights and operational implications derived from the comprehensive analysis of bilateral and multilateral cooperation agreements in the area of EU labour mobility. This structured approach ensures a rigorous and methodical examination of the legal, empirical and operational dimensions of labour mobility agreements within the EU, offering valuable insights for policymakers and stakeholders involved in shaping labour mobility policies and practices.

2. Setting the stage: legal review of (cooperation) agreements

2.1. Typology and sources of international agreements

This study reviews and analyses agreements on EU labour mobility. Different types of agreements are included in the review, including treaties and memoranda of understanding. To obtain a better understanding of their impact and value, an explanation of the legal framework governing such international agreements is presented here.

The terms ‘treaty’ and ‘(international) agreement’ are often used as generic terms referring to a wide range of international agreements for which different names are used, such as conventions, agreements, arrangements, covenants, charters, protocols and acts⁽⁸⁾. The meaning of the terms used in international practice is **variable** and there is **no established nomenclature**⁽⁹⁾. The concept of an international agreement seems, however, to be broader than that of a treaty, which is generally regulated by special international legislation.

Section 4.3 confirms this observation, as it is clear that Member States have used **different terms in order to refer to the international instruments by which they have established rights and obligations among themselves** in the area of EU labour mobility. The terms that are used to name the agreements include the following: ‘agreement’, ‘joint statement’, ‘joint declaration’, ‘memorandum’, ‘memorandum of cooperation’, ‘memorandum of understanding’, ‘convention’ and ‘treaty’.

In its narrower meaning, a treaty refers to a binding formal and written agreement by means of which states and/or international organisations (subjects of international law) establish mutual rights and obligations. Bilateral treaties or agreements can be distinguished from multilateral treaties or agreements in which more than two states are involved. Treaties between (nation) states are usually governed by the 1969 Vienna Convention on the Law of Treaties⁽¹⁰⁾. Treaties are, in principle, written documents, signed by a representative of the states concerned (heads of state, heads of government or ministers of foreign affairs) and (most often) subject to a subsequent ratification or accession process before they are binding upon the contracting states. The states designate a depository for the treaty, which is often the Secretariat-General of the UN where treaties and ratification instruments have to be registered and published⁽¹¹⁾. To that end, the UN maintains the online [UN Treaties Series](#), which is publicly accessible and searchable.

Examples of treaties, in the stricter sense of the word, are **regional integration treaties** (e.g. the [Treaty on European Union](#) and the [Treaty on the Functioning of the European Union](#)), International Labour Organization (ILO) conventions, Organisation for Economic Co-operation and Development conventions, Council of Europe conventions, bilateral double tax agreements, bilateral labour migration agreements (BLMAs) and bilateral or multilateral agreements on social security coordination.

Under the auspices of the ILO and its tripartite governance structure, a series of conventions (‘treaties’) have been adopted on international labour standards. These conventions are drawn up by governments and employers’ and workers’ representative organisations and adopted at the annual International Labour

⁽⁸⁾ Definition provided in the *Encyclopaedia Britannica* (<https://www.britannica.com/topic/treaty>).

⁽⁹⁾ Definitions and terms used in the United Nations Treaty Collection (https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml).

⁽¹⁰⁾ https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁽¹¹⁾ The [1986 Vienna Convention](#) on the Law of Treaties between States and International Organizations or between International Organizations contains the rules on this specific type of treaty. The treaty has not yet entered into force because there have not been enough ratifications.

Conference. The ILO conventions are subject to a ratification process by the acceding states, and they usually enter into force in a state one year after the date of ratification. The list of 115 ILO conventions currently in force is maintained by the ILO information system on international labour standards ⁽¹²⁾. There are 11 fundamental conventions ⁽¹³⁾ and four governance conventions including the Labour Inspection Convention No 81 (1947) and the Labour Inspection (Agriculture) Convention No 129 (1969) ⁽¹⁴⁾.

Of particular relevance to the present study are the bilateral and multilateral labour migration agreements regulating labour migration and the protection of migrant workers. These agreements are international instruments 'between two or more governments or government agencies that have agreed on a set of desirable objectives implying labour mobility' ⁽¹⁵⁾. Such agreements are most often concluded between origin and destination countries with (some categories of) workers migrating from one to another, but they could also concern an exchange of workers or establish procedures for cooperation between authorities from different Member States. Whereas the ILO has adopted a multilateral framework on labour migration and non-binding principles and guidelines for a rights-based approach to labour migration, two migrant-worker-specific ILO conventions and recommendations are of particular relevance in this regard: (1) Migration for Employment Convention No 97 (1949), which has been ratified by 54 ILO member states and has particular relevance as it contains provisions on exchange of information, together with its Recommendation No 86 and annex model agreement; and (2) Migrant Workers Convention No 143 (1975) ⁽¹⁶⁾ and its Recommendation No 151.

Migration to the EU from third countries is governed on the one hand by EU and national immigration and migration legislation on the entry, stay, residence and related EU labour mobility rights ⁽¹⁷⁾ and the social security rights of third-country nationals who are moving within the EU ⁽¹⁸⁾, and on the other hand by international law, including by multilateral and bilateral agreements concluded by individual Member States with third countries (e.g. BLMAs, bilateral agreements on social security coordination, double tax agreements). Many Member States have been concluding BLMAs ⁽¹⁹⁾ with third countries for many years in order to organise and manage incoming flows of migrant workers from third countries ⁽²⁰⁾, to allow young professionals / students to gain work experience ⁽²¹⁾, to facilitate working holidays for young people ⁽²²⁾ or to organise seasonal work ⁽²³⁾.

Since 2021, there has been a significant increase in the number of BLMAs concluded by a growing number of Member States (e.g. Bulgaria, Germany, Greece, Spain, France, Slovakia and Finland) due to the growing labour shortages in specific economic sectors and occupations ⁽²⁴⁾. Of a different nature are the bilateral agreements that individual Member States have concluded with third countries in order to coordinate the social security rights of their respective nationals when they work or have worked in the two countries concerned. Migration (flows) of third-country nationals to the EU, the related EU and international legislation and the

⁽¹²⁾ See the [Normlex overview of ILO conventions](#).

⁽¹³⁾ See the [overview of the ratifications](#) of the 11 fundamental conventions by the 187 ILO member states.

⁽¹⁴⁾ The Labour Inspection (Seafarers) Convention No 178 (1996) is considered a technical convention and as such not part of the governance conventions.

⁽¹⁵⁾ Definition taken from the UN Network on Migration's [Guidance on Bilateral Labour Migration Agreements](#) (2022).

⁽¹⁶⁾ The Migrant Workers (Supplementary Provisions) Convention No 143 (1975) contains provisions relating to illegal migration.

⁽¹⁷⁾ Directive 2003/109/EC (long-term residence) and Directive 2003/86/EC (family reunification) regulate the legal status and rights of third-country nationals who are already legally established in the EU, whereas the first-ever access to the EU of third-country nationals is governed by a different set of directives comprising Directive 2011/98/EU (single permit), Directive 2009/50/EC (EU Blue Card; highly skilled workers), Directive 2014/36/EU (seasonal workers), Directive 2014/66/EU (intracorporate transfers) and Directive (EU) 2016/801 (research, studies, training, voluntary service, pupil-exchange schemes or educational projects and au pairing).

⁽¹⁸⁾ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32010R1231>). Family members of EU nationals enjoying rights under the basis of Regulation (EC) 883/2004 on social security coordination are covered under that regulation.

⁽¹⁹⁾ Apart from the bilateral agreements, which are binding upon the concluding states, there are also different bilateral and multilateral programmes, sometimes financed with EU funding, that envisage the accompaniment of migrant labour and students from third countries to the EU.

⁽²⁰⁾ Examples are the bilateral agreements concluded between Belgium and Algeria, Morocco, Tunisia and Türkiye, respectively, in the 1960s. France has more than 60 BLMAs with third countries.

⁽²¹⁾ The bilateral agreement between France and New Zealand (1983) deals with youth mobility.

⁽²²⁾ The bilateral agreement between Canada and Slovakia (2011) deals with youth working holidays.

⁽²³⁾ The bilateral agreement between Albania and Greece (1997) deals with seasonal work.

⁽²⁴⁾ See the European Migration Network's reports and replies to ad hoc requests (https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-publications_en).

various types of agreements, including memoranda of understanding, concluded between Member States or their representative bodies (most often ministries or employment agencies) and counterparts in third countries are beyond the scope of the present study and will not be examined further. Instead, the study focuses on intra-EU mobility.

Overall, there is very little public information available on BLMAs and not much comparative academic research has been done ⁽²⁵⁾. The most comprehensive research on BLMAs has been undertaken by Chilton and Woda ⁽²⁶⁾, academics from the University of Chicago. This has resulted in an online database containing more than 1 200 bilateral labour agreements ⁽²⁷⁾. The labour agreements identified by Chilton and Woda deal with the following topics ⁽²⁸⁾: (1) bilateral agreements related to **temporary contract work**; (2) bilateral agreements on **seasonal work**; (3) bilateral agreements related to **interns/trainees**; (4) bilateral agreements related to **permanent migration**; (5) bilateral agreements related to **working holidays**; and (6) bilateral agreements regulating **travel** that include **worker-specific provisions**.

Key multilateral agreements include the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and its 2010 protocol, which were developed jointly by the Organisation for Economic Co-operation and Development and the Council of Europe ⁽²⁹⁾. The convention envisages international cooperation on tackling tax avoidance and evasion. The cooperation ranges from exchange of information between tax administrations, including automatic exchanges, to the recovery of foreign tax claims. Some 147 jurisdictions participate in the convention, and it entered into force in 33 states upon national ratification ⁽³⁰⁾.

States also conclude bilateral treaties or agreements with a view to avoiding double taxation and fighting tax fraud and taxation evasion when natural or legal persons generate income in a country other than their country of residence or establishment. Bilateral double tax agreements are always registered with the UN. They typically contain provisions on administrative cooperation between the participating states ⁽³¹⁾.

Social security coordination regulating the social security rights and obligations of nationals or insured persons who have worked and/or lived in two different states has also been the subject of bilateral agreements between those states. These agreements often contain provisions on the export of specific social security benefits; the aggregation of periods of insurance when individuals have worked consecutively in the respective countries concerned; or the calculation of the cash benefits in such cases.

Within the EU, social security coordination is regulated by EU primary law ⁽³²⁾, and the EU has adopted specific legislation governing the social security coordination for third-country nationals who are legally resident in the EU and who are moving within the EU ⁽³³⁾. They are entitled to the same rights as EU nationals.

In addition, individual Member States have concluded bilateral agreements on social security coordination with third countries. An overview of all bilateral agreements with third countries concluded by individual Member States, European Free Trade Association countries and the United Kingdom is maintained by the Administrative Commission for the Coordination of Social Security Systems. At the end of 2023, 516 bilateral agreements with third countries were in force while another 66 were in the process of being negotiated or pending ratification ⁽³⁴⁾.

⁽²⁵⁾ See Chilton, A. and Woda, B. (2022), 'The expanding universe of bilateral labor agreements', *Theoretical Inquiries in Law*, Vol. 23, No 2, pp. 1–64.

⁽²⁶⁾ See Chilton and Woda (2022).

⁽²⁷⁾ <https://www.law.uchicago.edu/bilateral-labor-agreements-dataset>.

⁽²⁸⁾ <https://www.law.uchicago.edu/bilateral-labor-agreements-dataset>.

⁽²⁹⁾ <https://www.oecd.org/en/topics/sub-issues/convention-on-mutual-administrative-assistance-in-tax-matters.html>.

⁽³⁰⁾ See the [overview of participating states](#) (not all Member States have ratified).

⁽³¹⁾ See the [overview of the bilateral double tax agreements](#) concluded by Member States with other Member States and with third countries.

⁽³²⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1); Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

⁽³³⁾ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 1).

⁽³⁴⁾ International forum of the Administrative Commission for the Coordination of Social Security Systems.

Of a different nature is the Council of Europe's European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities ⁽³⁵⁾. The aim is to achieve greater unity between Council of Europe member states and to promote cooperation between them, thus confirming the potential importance of cooperation between territorial communities or authorities on frontiers in such fields as regional, urban and rural development, environmental protection, the improvement of public facilities and services, and mutual assistance in emergencies, as well as the basic improvement and development of frontier regions ⁽³⁶⁾.

The convention encourages member states to foster cooperation between territorial units or authorities within their respective jurisdictions. The convention envisages the possibility for territorial communities or authorities to conclude agreements with their counterparts in other national jurisdictions within their areas of competence within their national (constitutional and administrative) contexts. The convention contains models for agreements, statutes and contracts in its annex that can be used by territorial communities. At present, 39 Council of Europe member states have ratified the convention ⁽³⁷⁾.

Several agreements concerning cross-border cooperation have been concluded that refer to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, such as the Anholt agreement between Germany and the Netherlands and the Mainz agreement of 1996 between North Rhine-Westphalia and Rhineland-Palatinate, the Walloon Region and the German-speaking community of Belgium ⁽³⁸⁾.

As noted above, a treaty in its **narrower meaning** refers to a binding formal and written agreement by means of which states and/or international organisations (subjects of international law) establish mutual rights and obligations. However, whereas international treaties or agreements in the strict sense are binding upon the states as contracting parties and are governed under international law, international agreements in a wider sense can also be concluded by parliaments or governments (at the different levels of the administration), government departments (ministries, regional or local executive branches), public administration bodies, executive agencies or enforcement agencies, with a view to establishing **cooperation of a mere administrative or technical nature or to exchange information or data**. Such international agreements' material scope is bound by the constitutional or legal competence that has been attributed to the contracting parties in their respective countries. International agreements in this broader sense hence refer to **less formal agreements** than treaties and they deal with a narrower range of subject matters. Such agreements are most often not subject to a ratification or accession process and/or are often not deposited. They may also have different names, such as 'protocol', 'memorandum of understanding' or 'joint declaration'. These agreements often establish (technical or administrative) cooperation arrangements or information exchanges between government departments or executive branches of government in specific policy domains.

This study on bilateral and multilateral agreements concluded between public institutions from Member States in the area of EU labour mobility, with a focus on posting, **primarily concerns the latter type of agreements that focus on administrative cooperation and information exchange between national authorities and enforcement agencies**.

2.2. Overview of EU cooperation obligations in the area of labour mobility

This section describes the EU legal framework in the area of labour mobility and provides an overview of the various cooperation obligations stemming from EU law. The analysis is limited to those areas that fall

⁽³⁵⁾ See [the full list of Council of Europe treaties](#).

⁽³⁶⁾ See Zapletal, J. (2010), 'The European Grouping of Territorial Cooperation (EGTC): A new tool facilitating cross-border cooperation and governance', *Quaestiones Geographicae*, Vol. 29, No 4, pp. 15–26.

⁽³⁷⁾ <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=106>.

⁽³⁸⁾ See Zapletal, J. (2010), 'The European Grouping of Territorial Cooperation (EGTC): A new tool facilitating cross-border cooperation and governance', *Quaestiones Geographicae*, Vol. 29, No 4, pp. 15–26. For details on the Mainz accord, see the '[RECHT.NRW. DE – bestens informiert](#)' portal.

within the mandate of the ELA in accordance with Article 1(4) of Regulation (EU) 2019/1149⁽³⁹⁾ (**the ELA regulation**). Article 2 of the ELA regulation provides that one of the ELA's main objectives is to facilitate and enhance cooperation between Member States in the enforcement of relevant EU law across the EU, including facilitating cross-border concerted and joint inspections. Accordingly, the ELA carries out this objective by, among others, facilitating access to information, cooperation and exchange of information between Member States, with a view to enabling the consistent, efficient and effective application and enforcement of relevant EU law, coordinating and supporting concerted and joint inspections, and supporting Member States to build capacity regarding the effective application and enforcement of relevant EU law (Articles 4, 5, 7, 8, 9 and 11 of the ELA regulation).

2.2.1. Free movement of workers

EU workers are entitled to move, reside and work throughout the EU. They are protected against direct and indirect discrimination on the grounds of nationality in relation to the working conditions (including remuneration) that are applied in the country of employment.

The free movement of workers is a fundamental cornerstone enshrined in the EU treaties. It is regulated by EU primary and secondary legislation, including Directive 2014/54/EU⁽⁴⁰⁾ on measures facilitating the exercise of the rights conferred on workers in the context of freedom of movement for workers.

The directive obliges Member States to ensure that conciliation and judicial procedures are available to all EU workers to help in ensuring its enforcement. Member States should also designate one or more structures or bodies for the promotion, analysis, monitoring and support of the equal treatment provisions. Furthermore, Member States should promote dialogue with the social partners and with relevant non-governmental organisations that have a legitimate interest in contributing to the fight against unjustified restrictions and obstacles to the right to free movement. Finally, Member States should ensure that the provisions they adopt are brought to the attention of the persons concerned throughout their territory, in particular to workers and employers. To that end, Member States are obliged to provide, in more than one official EU language, information on the rights concerning the free movement of workers that is clear, free of charge, easily accessible, comprehensive and up to date. This information should also be easily accessible through Your Europe⁽⁴¹⁾ and European Employment Services⁽⁴²⁾.

2.2.2. Social security coordination

The EU legislation on social security coordination for mobile workers consists of the basic Regulation (EC) No 883/2004⁽⁴³⁾ and Implementing Regulation (EC) No 987/2009⁽⁴⁴⁾. These regulations primarily aim to determine which (single) national social security legislation is applicable to an individual in an intra-EU cross-border mobility situation. The social security legislation applicable in the competent Member State, which in principle is the legislation of the country where the individual is professionally active, will determine the level of social contributions that have to be paid, as well as the social security benefit entitlements. EU social security coordination legislation furthermore establishes general principles, such as equal treatment on the grounds of nationality, the export of specific social security benefits and the principle of the aggregation of insurance

⁽³⁹⁾ 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) 2016/344 (OJ L 186, 11.7.2019, p. 21).

⁽⁴⁰⁾ Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (OJ L 128, 30.4.2014, p. 8).

⁽⁴¹⁾ <https://europa.eu/youreurope/index.htm>.

⁽⁴²⁾ https://eures.europa.eu/index_en.

⁽⁴³⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

⁽⁴⁴⁾ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

periods that have been completed in different Member States for calculating a qualifying period or a benefit entitlement.

Regulation (EC) No 883/2004 and Implementing Regulation (EC) No 987/2009 contain several specific cooperation measures and obligations for the Member States. Member States must designate one or more liaison bodies representing all or specific social security branches covered by the basic regulation.

Additionally, the Administrative Commission for the Coordination of Social Security Systems has a major influence on how the coordination rules are implemented. Its primary function is to help ensure the consistent application of the coordination rules by clarifying interpretative and administrative issues, as well as providing a forum for sharing experiences and practices between Member States. The administrative commission also has a role in dispute resolution; it has created the Conciliation Committee for this purpose.

Exchange of information between the more than 5 000 national social security institutions is facilitated by the Electronic Exchange of Social Security Information (EESSI), a specific information system designed specifically for electronic information exchange on individual cases between social security institutions in the EU. EESSI uses structured electronic documents, which are documents designed in a specific format that allows for electronic exchange. Mobile workers can furthermore obtain portable documents (PDs) issued by the competent institutions of the Member State in which the individual is insured. These are designed to confirm that the competent institutions have granted the individual certain rights in that individual's dealings with a social security institution in another Member State. There are 10 PDs that are used for different types of social security. The most important for this study is the PD A1 certificate, which confirms that the individual is affiliated to the social security system of the country that issued the certificate. This is of particular relevance in situations of posting, when workers are working temporarily in a Member State other than the competent Member State. PDs produced by a Member State's social security institution are legally valid in any other Member State and must be enforced by the latter state's institutions.

In 2007, the Administrative Commission set up an ad hoc group with a view to strengthening administrative cooperation between Member States in the fight against fraud. This led to the adoption in 2010 of Decision No H5 ⁽⁴⁵⁾ and the setting up of a network of national contact points, in which Member States participate on a voluntary basis and report on their experiences and actions in the area of fraud and error, including on the bilateral agreements they have concluded. The network has produced several annual reports on fraud and error. In addition, Member States have concluded many bilateral agreements that envisage improved administrative cooperation and information exchange, and the combating of fraud and error, between the various national social security institutions on individual cases of intra-EU cross-border mobility.

'Fraud' and 'error' are defined, respectively, as 'any act or omission to act, in order to obtain or receive social security benefits or to avoid obligations to pay social security contributions, contrary to the law of a Member State' and as 'an unintentional mistake or omission by officials and citizens' ⁽⁴⁶⁾. They can lead to the fraudulent or erroneous application of EU social security coordination rules, resulting in the incorrect payment of a social security benefit by a national social security institute or the avoidance of social contribution payments in the competent state by companies and/or individuals.

⁽⁴⁵⁾ Decision No H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems (OJ C 149, 8.6.2010, p. 5).

⁽⁴⁶⁾ European Commission (2013), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Free movement of EU citizens and their families: Five actions to make a difference, COM(2013) 837 final of 25 November 2013.

2.2.3. Posting

Directive 96/71/EC ⁽⁴⁷⁾ and **Directive (EU) 2018/957** ⁽⁴⁸⁾ are the key EU legislative instruments on the posting of workers in the EU. The overall objective of these directives is to lay down rules regarding working conditions and the protection of posted workers' health and safety, and to ensure fair wages and a level playing field between posting and local companies in the host country, while maintaining the principle of free movement of services.

A 'posted worker' is defined as a worker who, for a limited period, carries out their work in the territory of a Member State other than the state in which they normally work. The starting point of the protection of posted workers is that they remain subject to the employment law of the sending Member State. However, some parts of the employment protection of the receiving Member State also apply. Directive 96/71/EC determines when and which 'hard core' employment conditions should be applied in cross-border labour flows within the EU when workers are posted and hence working abroad. In other words, regardless of the law that applies to the employment relationship, receiving Member States must ensure that undertakings guarantee the workers posted to their territory a set of hard core minimum terms and working conditions of employment as laid down in their national law and collective agreements that are universally applicable ⁽⁴⁹⁾.

Of particular relevance to this report are those provisions that are related to the enforcement of the posting rules and the cooperation between Member States' authorities in enforcing the rules concerned:

- In this regard, Article 4(1) creates an obligation for Member States to designate one or more liaison offices or one or more competent national bodies for the purposes of implementing this directive. In line with Article 4(2) of Directive 96/71/EC (as amended by Article 1(3) of Directive (EU) 2018/987), Member States are required to guarantee cooperation between the authorities or bodies competent to monitor the hard core terms and employment conditions.
- Article 4(2) of Directive 96/71/EC (as amended by Article 1(3) of Directive (EU) 2018/987) further specifies that 'such cooperation shall in particular consist in replying to reasoned requests from those authorities or bodies for information on the transnational hiring-out of workers, and in tackling manifest abuses or possible cases of unlawful activities, such as transnational cases of undeclared work and bogus self-employment linked to the posting of workers'.
- The new Article 4(2) of Directive 96/71/EC, in its third sentence, continues that 'where the competent authority or body in the Member State from which the worker is posted does not possess the information requested by the competent authority or body of the Member State to whose territory the worker is posted, it shall seek to obtain that information from other authorities or bodies in that Member State. In the event of persistent delays in the provision of such information to the Member State to whose territory the worker is posted, the Commission shall be informed and shall take appropriate measures.'
- Article 5 of Directive 96/71/EC (as amended by Article 1(4) of Directive (EU) 2018/987) further stipulates that 'the Member State to whose territory the worker is posted and the Member State from which the worker is posted shall be responsible for the monitoring, control and enforcement of the obligations laid down in

⁽⁴⁷⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

⁽⁴⁸⁾ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 173, 9.7.2018, p. 16).

⁽⁴⁹⁾ These rights include (1) maximum work periods and minimum rest periods; (2) minimum paid annual leave; (3) remuneration, including overtime rates; (4) the conditions for the hiring-out of workers, in particular the supply of workers by temporary employment undertakings; (5) health, safety and hygiene at work; (6) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people; (7) the equality of treatment between men and women and other provisions on non-discrimination; (8) the conditions of workers' accommodation when provided by the employer to workers away from their regular place of work; and (9) allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons. Directive (EU) 2018/957 has extended the scope of 'hard core' measures. It now also includes (1) the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work; and (2) allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons. This refers exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the Member State to whose territory they are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.

this Directive and in Directive 2014/67/EU and shall take appropriate measures in the event of failure to comply with this Directive'. In this context, the new Article 5 of Directive 96/71/EC provides that 'Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.'

Directive 2014/67/EU (the Enforcement Directive) establishes a common framework of provisions, measures and control mechanisms to facilitate better and more uniform implementation, application and enforcement of Directive 96/71/EC. The Enforcement Directive aims to guarantee respect for an appropriate level of protection of the rights of posted workers for the cross-border provision of services, in particular the enforcement of the terms and conditions of employment that apply in the Member State in which the service is to be provided, while facilitating the exercise of the freedom to provide services for service providers and promoting fair competition between service providers, and thus supporting the functioning of the internal market.

Table 1 provides an overview of the relevant cooperation rights and obligations provided in the Enforcement Directive. Of specific relevance to this report is **Article 21(2)**, which allows Member States to apply **bilateral agreements or arrangements** concerning administrative cooperation and mutual assistance between their competent authorities as regards the application and monitoring of the terms and conditions of employment applicable to posted workers, insofar as they are compliant with three requirements.

- These agreements or arrangements do not adversely affect the rights and obligations of the workers and undertakings concerned.
- Member States must inform the European Commission of the bilateral agreements and/or arrangements they apply and must make the text of those bilateral agreements generally available.
- Member States must use the IMI as much as possible. In the event that a competent authority in one of the Member States concerned has used the IMI, it must also be used for any follow-up required, as far as possible.

Table 1. Overview of relevant cooperation rights and obligations in the Enforcement Directive

Directive 2014/67/EU	
Article 3	Obligation to designate one or more competent authorities, which may include the liaison office(s) established under Directive 96/71/EC, and obligation to communicate their contact details to the other Member States and to the European Commission; obligation of the European Commission to publish and update the list of competent authorities
Article 5	Obligation to make information on the terms and conditions applicable to posted workers generally available on one single official national website in the official language(s) of the host Member State and in other most relevant languages; obligation to indicate the contact person in the liaison office for requests for information
Article 6	Principles of mutual assistance, cooperation and exchange of information; obligation to reply to reasoned requests for information and the carrying out of checks, inspections and investigations on non-compliance or abuse of applicable rules on posting; obligation to inform the European Commission if there are persisting problems in exchange of information; timelines for replies (2 working days in the event of urgency, 25 working days as standard); accessibility of the registers in which service providers are entered
Article 7	Administrative cooperation between the host Member State and the Member State of establishment
Article 8	Accompanying measures, including exchanges of officials, training and the promotion of best practice initiatives; development of databases or joint websites
Article 10	Obligation to conduct checks and inspections based on risk assessments; exchange of information in relation to inspections
Article 11	Obligation to install mechanisms by which posted workers may lodge complaints and initiate administrative and judicial proceedings
Articles 13–19	Cross-border enforcement of financial administrative penalties and fines; designation of the national authorities competent for the enforcement of penalties and procedures, including the use of the IMI
Article 20	Obligation to notify the European Commission of the rules on penalties
Article 21	IMI and the opportunity for Member States to conclude bilateral agreements

2.2.4. Road transport

The EU legal framework applicable to international commercial road transport services operated in the EU and to the labour mobility of international transport drivers in the EU cross-border road transport sector consists of a broad set of legal instruments with varying objectives⁽⁵⁰⁾. Nonetheless, it is possible to discern four different dimensions of EU law that are relevant in the area of road transport (and that fall within the mandate of the ELA):

- legislation on access to the profession of road transport operator for undertakings established in the EU;
- legislation on driving times, rest periods and working conditions for drivers engaged in international road transport operations conducted within the EU (i.e. the specific ‘social legislation’ applicable to international road transport services operated within the EU);
- legislation on the posting of workers, including on the posting of drivers in the international road transport sector in the EU;
- legislation on the coordination of social security systems for persons moving within the EU, including for drivers engaged in international road transport.

⁽⁵⁰⁾ For a comprehensive overview of the EU legislative framework in the area of road transport, including the different cooperation obligations applicable, see the ELA report *Cooperation obligations and practices in the enforcement of EU rules on international road transport in the EU*.

With regard to the cooperation obligations in the area of international road transport, there are several distinct categories ⁽⁵¹⁾. For instance, depending on the specific category of legislation concerned, Member States are obliged to set up an operational framework and to designate one or more liaison bodies or contact points for exchange of information with other Member States or in relation to the European Commission.

The cross-border exchange of information and data with a view to the enforcement of EU legislation in the road transport sector requires the involvement of different national authorities (including licensing authorities) and enforcement agencies. For instance, data exchanges with a view to enforcing the legislation on access for transport operators, posting rules and driving times rely on the European Register of Road Transport Undertakings (ERRU) messaging system and on the IMI. As a result of the 2020 mobility package I, the IMI introduced three new road transport modules in addition to the existing IMI modules on (general) posting, services and the mutual recognition of diplomas. The new modules deal with the data on the stable and effective establishment of transport operators, the posting of drivers and the applicable social legislation. In the area of social security coordination, the social security institutions entrusted with the administration of the different branches of social security exchange information and data using the EESSI system.

The three new modules have been operational since spring 2022 and allow Member States to check the good repute of transport managers and the existence of a community licence in the country of establishment; report infringements or penalties imposed; and request clarification on the interpretation of EU social rules and the validity of posting declarations. The use of the ERRU has also been reinforced by making it an interconnected database for data related to transport operators, their compliance with legislative requirements and their risk rating. The European Commission is currently preparing a new implementing regulation on the interconnection of the national electronic registers with the ERRU. Finally, the EU rules on driving and rest times as well as the *lex specialis* on the posting of drivers in the international road transport sector require Member States to exchange best practices and organise exchanges of and training for the staff of the enforcement agencies.

⁽⁵¹⁾ <https://www.ela.europa.eu/sites/default/files/2023-10/Cooperation-roadtransport-report.pdf>.

3. Bilateral and multilateral agreements in the area of labour mobility

3.1. Literature review: transnational cooperation (agreements) in the area of labour mobility

In academic literature, enforcement authorities are repeatedly identified as the key actors in ensuring workers' safety standards across Member States. For example, Ryszka (2019) explained that there should not be any doubt as to the key role that labour inspectorates play for both fair mobility and the protection of workers. She emphasised that this is especially true in the context of the posting of workers, by establishing their liability for compliance with host Member States' minimum working conditions ⁽⁵²⁾.

Contracting parties to the agreements collected

The textual analysis of the 60 agreements collected identified inspectorates and enforcement authorities as highly involved in the negotiation and further implementation of the agreements (see Chapters 4 and 5 for more information). In fact, out of 60 agreements analysed, 18 were concluded exclusively between these authorities. Additionally, the empirical analysis revealed that although 28 out of 60 analysed agreements were concluded by ministries, it is often the inspectorates that are (partially or entirely) entrusted to actually implement the agreements and fulfil their **key role in ensuring workers' safety standards across Member States**.

At the same time, it has been argued that workers employed across borders within the EU present a unique dilemma for national labour oversight bodies (Čaněk et al., 2018). Hartlapp (2014) found that the integration of national administrations within the EU multilevel system challenges the traditional connection between administrative functions and national territories. With increased freedom of movement and services crossing borders, effective enforcement now relies on cooperation between Member States' enforcement systems ⁽⁵³⁾. In essence, the emergence of the EU's multilevel system necessitates a shift towards cooperation between national enforcement agencies. This argument is followed by Dvorak and Civinskas (2018), who state that cooperation in the field of posting between autonomous institutions and socioeconomic partners is essential for solving the problems of social dumping, the misuse of PD A1 forms, bogus self-employment and letterbox companies ⁽⁵⁴⁾. Equally, Čaněk et al. (2018) point out how transnational service providers navigate between different national systems, making it difficult for labour inspectorates and other national authorities to monitor and enforce the rights of these workers effectively ⁽⁵⁵⁾. Lillie and Kall (2017) also argue that the posting of

⁽⁵²⁾ Ryszka, J. (2019), 'The significance of effective labour inspectorates for cross-border labour mobility', *Adam Mickiewicz University Law Review*, Vol. 9, pp. 167–182. Meanwhile, the standard has been raised to the hard core terms and conditions of employment from the minimum conditions, following the adoption of Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

⁽⁵³⁾ Hartlapp, M. (2014), 'Enforcing social Europe through labour inspectorates: Changes in capacity and cooperation across Europe', *West European Politics*, Vol. 37, No 4, pp. 805–824.

⁽⁵⁴⁾ Dvorak, J. and Civinskas, R. (2018), 'The determinants of cooperation and the need for better communication between stakeholders in EU countries: The case of posted workers', *Polish Journal of Management Studies*, Vol. 18, No 1, pp. 94–106.

⁽⁵⁵⁾ Čaněk, M., Kall, K., Lillie, N., Wallace, A. and Haidinger, B. (2018), *Transnational cooperation among labour regulation enforcement agencies in Europe: Challenges and opportunities related to the posting of workers*, Solidar, Brussels.

workers is a complex phenomenon that requires comprehensive cooperation (e.g. joint visits to the work sites of posted workers, enhanced information exchange between different national actors) ⁽⁵⁶⁾.

Key objectives of the agreements collected

A textual analysis of the agreements reveals that a good portion of the actors involved are aware of the challenges surrounding the enforcement of labour mobility rules (see Chapters 4 and 5 for more information). In that context, more than **24 out of 60 agreements have among their objectives the fight against undeclared or illegal work, which arises from (cooperation) gaps between one system and another.**

On the other hand, it was observed from the semi-structured interviews that very intensive cross-border collaboration, for example in the form of information activities for workers who daily cross a border and then re-enter, does not solve the problem entirely, but it does help the inspection authorities (of both countries) to have much more clarity about issues that need to be prevented or combated.

The literature reveals that this (transnational) cooperation is challenging for a number of reasons (e.g. van Hoek and Houwerzijl, 2011; Hartlapp, 2014; Čaněk et al., 2018; Dvorak and Civinskas, 2018; Rsyzka, 2019). Difficulties in cross-border cooperation are increased by the wide variety of functions performed by the competent authorities within and between different Member States (van Hoek and Houwerzijl, 2011) ⁽⁵⁷⁾. Each country differs slightly depending on the legal framework and which institutions are responsible for different aspects of posting, such as wages, social security, health insurance, and occupational health and safety (Danaj et al., 2021) ⁽⁵⁸⁾. Transnational cooperation can also be influenced by the fact that the mandate of public authorities in different Member States may not coincide, not only at the transnational level but also among the various public authorities in the individual Member States (Cillo and Perocco, 2021). Thus, the literature emphasises that transnational cooperation in the area of labour mobility faces significant challenges stemming from the diverse functions and mandates of competent authorities across different Member States, as well as variations in legal frameworks governing aspects related to labour mobility rules.

Differences in institutional set-ups

One of the key challenges identified during the empirical analysis relates to the fact that each country differs slightly depending on the legal framework and the institutions responsible for different aspects of labour mobility (see Chapters 4 and 5 for more information). For instance, during the interview with representatives from the Czech and Polish inspectorates, an overview was provided of the difficulties encountered in concluding the memorandum dated 6 June 2023, as well as other related issues. This made clear that Czechia and Poland had to work extensively to get a better understanding of each other's competences before concluding a cooperation agreement.

The intensity of cooperation differs from country to country and may depend on the capacities of a country's local enforcement agencies (Danaj et al., 2021). In other words, proper enforcement is only possible if there are sufficient financial and human resources (Jorens and De Wispelaere, 2019). The article from Jorens and De Wispelaere (2019) points out that this remains a problem in many Member States, along with the willingness to cooperate transnationally. In this context, Cillo and Perocco (2021) point out that many cases of fraudulent

⁽⁵⁶⁾ Lillie, N. and Kall, K. (2017), *Protection of Posted Workers in the European Union: Findings and policy recommendations based on existing research*, University of Jyväskylä, Jyväskylä.

⁽⁵⁷⁾ van Hoek, A. and Houwerzijl, M. (2011), *Complementary study on the legal aspects of the posting of workers in the framework of the provision of services in the European Union*, University of Amsterdam, Amsterdam.

⁽⁵⁸⁾ Danaj, S., Zólyomi, E., Kahlert, R., Prinz, N. and Sandu, V. (2021), *The gap between legal procedures and practices in posting rule enactment: A comparative working paper*, European Centre for Social Welfare Policy and Research, Vienna.

practices are not investigated because there are not enough staff to carry out systematic inspections and because the temporary nature of the posting requires prompt intervention by public authorities ⁽⁵⁹⁾. More specifically, the following recurring elements in the lack of human and financial resources were identified from this literature review (e.g. Hartlapp, 2014; Lillie and Kall, 2017; Čaněk et al., 2018; Jorens and De Wispelaere, 2019; Ryszka, 2019; Cillo and Perocco, 2021):

- the complexity of the posting and other related rules combined with enforcement agencies' low levels of knowledge on posting,
- understaffing and limited personnel capacities,
- language barriers.

(In)sufficient human and financial resources

Despite the persistent issue of insufficient human and financial resources for many countries during both the **negotiation** and **implementation** phases of the agreements studied (see Chapter 5 for more information), it is important to point out that some interviews revealed a notable positive impact on cooperation when these resource challenges are addressed, either partially or fully. A particularly illustrative example was provided by a representative of the Portuguese Authority for Working Conditions (ACT), who noted that although resource constraints had been problematic in the past, recent improvements had significantly enhanced the effectiveness of cooperation with other Member States with whom agreements are in place. Furthermore, interviewees from Czechia, Estonia and France emphasised the substantial support provided by the ELA and Eurodétachement, particularly in terms of financial assistance.

Several authors have also stressed repeatedly that the smooth exchange of data and information is of paramount importance in both national and transnational cooperation (e.g. Jorens and De Wispelaere, 2019; Ryszka, 2019; Cillo and Perocco, 2021; Iudicone et al., 2021). In the case of transnational data exchange, it is argued that possible problems from delays in data exchange and the identification of the 'unit' from which information is requested are common. Labour inspectors have reported that they encounter difficulties in receiving information from the labour inspectorates of some sending countries, even when requests are made through the IMI (Cillo and Perocco, 2021). Some systems are not yet set up for joint data sharing across national institutions, and the fact that mandates differ across countries makes it difficult to access certain information transnationally (Danaj et al., 2021).

Several other critical issues have also been identified in the literature on transnational cooperation in the field of posting. For instance, it has been stressed that the activities of enforcement authorities are also influenced by the lack of knowledge of both posted workers and posting companies on their rights and their interactions with labour inspectorates and other enforcement bodies (Čaněk et al., 2018; Cillo and Perocco, 2021). Concerns and difficulties regarding privacy and confidentiality during information exchange between different enforcement authorities have also emerged as a recurring challenge (e.g. Velázquez Fernández, 2011; Čaněk et al., 2018; Jorens and De Wispelaere, 2019). Additionally, the literature review revealed that some Member States still suffer from a lack of interoperability among the databases, with implications for both the domestic system and the relations between the different Member States (e.g. Enacting, 2016; Stefanov and Mineva, 2017a ⁽⁶⁰⁾). Finally, the cross-border execution of administrative fines and penalties imposed by one Member State's enforcement authorities for failure to respect the requirements of the posting of workers directive remains a challenge in some Member States (Čaněk et al., 2018; Jorens and De Wispelaere, 2019).

⁽⁵⁹⁾ Cillo, R. and Perocco, F. (2021), *Italian authorities' challenges in the monitoring of the posting of workers*, European Centre for Social Welfare Policy and Research, Vienna.

⁽⁶⁰⁾ Enacting (2016), *Transnational Posting of Workers within the EU – Guidelines for administrative cooperation and mutual assistance in the light of Directive 67/2014/EU*.

Information exchange and cross-border execution of administrative fines and penalties

A notable finding from the empirical analysis (see Chapter 5 for more information) conducted through surveys and interviews pertains to the challenges associated with data protection, the effectiveness of information exchange via the IMI and the interoperability of various existing databases. The analysis indicates that bilateral or multilateral agreements play a crucial role in addressing these challenges. Such agreements appear to mitigate the lengthy response times often encountered between requests and replies, potentially facilitated by informal contacts occurring parallel to the formal IMI process. Moreover, these agreements enhance the knowledge and preparedness of the parties involved regarding the functioning of their respective systems and databases. A pertinent example is the data exchange between Belgium and France, which, except for the communication of fines, is conducted through the SIPSI online service rather than the IMI.

However, as pointed out above (Čaněk et al., 2018; Jorens and De Wispelaere, 2019), **the cross-border execution of administrative fines and penalties** imposed by one Member State's enforcement authorities for failure to respect the requirements of the Posting of Workers Directive **still remains a challenge, including for Member States with an agreement in place.**

As a result, in order for legislation on posting to be implemented more effectively across the EU, enforcement systems must adapt to operating in a more interconnected and cooperative manner (Hartlapp, 2014). As far back as 2008, a Commission recommendation underscored that adequate and effective implementation and enforcement are key elements in protecting posted workers' rights, whereas poor enforcement undermines the effectiveness of the EU rules applicable in this area⁽⁶¹⁾. Despite the persistent challenges in (transnational) cooperation in the field of posting indicated above, numerous recommendations or solutions have been put forward in the literature.

For instance, Hartlapp (2014) argues that efforts should be made to **align inspection methodologies, standards or procedures across borders**. Harmonised approaches across Member States should lead to more effective and cohesive enforcement actions. Other authors have emphasised the importance of **joint inspections** as a fundamental cornerstone of effective cross-border enforcement in the area of posting (e.g. Hartlapp, 2014; Lillie and Kall, 2017; Čaněk et al., 2018; Cillo and Perocco, 2021; IOM, 2023 b). Next, **additional financial and human resources** are deemed crucial in several academic articles (e.g. Lillie and Kall, 2017; Danaj et al., 2021; Iudicone et al., 2021). Related to the issue of resources, **capacity-building initiatives** have been a common recommendation to combat challenges encountered in transnational cooperation. These include facilitating staff exchanges (e.g. Stefanov and Mineva, 2017a; Ryszka, 2019), sharing good practices (e.g. the Post-Lab project; IOM 2023 B), sharing information on (changes in) national regulations (e.g. Post-Lab, 2015⁽⁶²⁾; Danaj et al., 2021), training of staff (e.g. Enacting, 2016; Robin-Olivier, 2020) and ensuring regular meetings between Member State authorities (e.g. Wickramasekara, 2015; Stefanov and Mineva, 2017a; Iudicone et al., 2021).

Another recommendation that has been put forward is to increase **risk assessment procedures or strategic targeting**, in which enforcement authorities focus on high-risk industries or sectors where violations are more prevalent, increasing their effectiveness by steering resources where they are most needed (e.g. Hartlapp, 2014; Stefanov and Mineva, 2017). In addition, **awareness raising** among posted workers and posting companies should improve the application of the posting rules in a transnational context (Enacting, 2016; Čaněk et al., 2018; Iudicone et al., 2021). It is also argued that **diversifying communication strategies** in the field to overcome language barriers is essential to effective enforcement in the field of posting (Danaj et al., 2021). Other authors have also stressed repeatedly that improving the exchange of information between Member States, including (but not only) through the IMI, is considered paramount (e.g. Hartlapp, 2014; Enacting, 2016; Jorens and De Wispelaere, 2019; Danaj et al., 2021; IOM 2023 B, 2023). Lastly, reliance on EU-level or other bodies (e.g. the ELA, the Senior Labour Inspectors Committee (SLIC), Eurodétachement⁽⁶³⁾) to foster and

⁽⁶¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2008:085:FULL>.

⁽⁶²⁾ Post-Lab (2015), *Developing experiences of administrative cooperation in the framework of posting of workers – Final report*, National Joint Commission for Construction Funds.

⁽⁶³⁾ <https://www.eurodetachment-travail.eu/>.

improve cooperation between Member States is strongly encouraged (e.g. Ryszka, 2019; Robin-Olivier, 2020; Danaj et al., 2021; Cillo and Perocco, 2021).

Aside from the recommendations above, **bilateral and multilateral cooperation agreements** between Member States are another tool that has the potential to combat many of the challenges encountered in the transnational enforcement of the posting provisions. The importance of these **bilateral and multilateral cooperation agreements** has been voiced in a multitude of academic and policy publications (e.g. van Hoek and Houwerzijl, 2011; Hartlapp, 2014; Wickramasekara, 2015; Enacting, 2016; IOM 2023 a, 2023). Complexity and diversity among Member States are among the reasons for concluding tailor-made bilateral agreements⁽⁶⁴⁾. Such agreements can address specific issues between two or three Member States more effectively than a one-size-fits-all approach involving the entire EU-27. It should also be reiterated in this context that Article 21, paragraph 2 of Directive 2014/67/EU provides that public administrations can conclude bilateral agreements and/or pacts, for monitoring the work conditions applicable to posted workers.

For instance, Wickramasekara (2015) discusses how, over the years, the ILO instruments have acknowledged the potential of bilateral cooperation in effectively managing labour migration and safeguarding the rights of migrant workers. Similarly, the report on the Information Sharing Agreements (ISA) project (Iudicone et al., 2021) argued that the role of (informal) personal contacts in international cooperation had emerged as a concern in some regards, thus underscoring the need for stable governance structures to ensure continuity beyond individual officials' efforts. Governance systems such as annual steering committee meetings and the appointment of local reference persons were seen as effective strategies to sustain cooperation.

Velázquez Fernández (2011) noted that bilateral agreements are the most common form of regulation for mutual assistance between EU labour inspectorates. The International Organization for Migration (IOM 2023a) (2023) suggested that inspectorates should be encouraged to pursue formal information-sharing agreements with other relevant departments⁽⁶⁵⁾. The report also emphasised that international collaboration via formal bilateral, regional and multilateral cooperation, such as BLMAs, should also include information-sharing provisions and the roles and duties of respective inspectorates in both jurisdictions. The primary objectives of cooperative protocols should be to improve migrant worker protection outcomes, strengthen the integrity of inspection findings and strengthen the efficiency of resources.

Enacting (2016) recommended promoting the conclusion of supporting bilateral arrangements and agreements on administrative cooperation, in particular with those countries in which posting is most frequent. Čaněk et al. (2018) pointed out that several inspectorates have established bilateral or trilateral cooperation agreements and memoranda of understanding with the foremost aims of enhancing information sharing between the inspectorates of different countries, sharing good practices, supporting common activities (like joint inspections) and establishing personal ties between inspectors.

⁽⁶⁴⁾ As emphasised during the Expert Working Group meeting for the study on 29 April 2024.

⁽⁶⁵⁾ International Organization for Migration (IOM) (2023b), 'Strengthening the effectiveness of inspectorates', in: *IRIS handbook for governments on ethical recruitment and migrant worker protection*, Geneva.

Value of bilateral and multilateral agreements

The semi-structured interviews as well as the discussions during the Expert Working Group meetings yielded insightful reflections on the actual usefulness of concluding multilateral or bilateral agreements (see Chapter 5 for more information). The primary perspectives can be summarised as follows.

- Multilateral and bilateral agreements are regarded by some as essential tools that enhance the effectiveness and speed of cooperation between countries, thereby facilitating the achievement of satisfactory outcomes.
- Conversely, some opinions suggest that especially bilateral agreements are superfluous, given the existence of robust international networks (e.g. the ELA, the SLIC, Eurodétachement, the Nordic Baltic Hub (an agreement between Nordic and Baltic countries)) that already support excellent cooperation. According to this view, additional agreements would merely burden the limited available resources.

Following a comprehensive textual and empirical analysis of the agreements collected, and an assessment of their actual impact on cross-border cooperation in labour mobility, the main conclusions on this issue are detailed in Section 6.1.2.

3.2. Successful conclusion and implementation of bilateral and multilateral agreements

Notwithstanding the importance attached to such agreements in the academic literature and policy publications, specific and detailed information on the structure and contents of bilateral cooperation agreements in the area of posting, and the challenges and success factors of their design, implementation and evaluation, is very scarce. Chilton and Woda (2022), cited above, identified the following reasons for this limited public attention: (1) no international organisation is charged with keeping track of these agreements; (2) countries have poor records of publicising and/or disclosing bilateral labour agreements; (3) countries are hesitant to disclose bilateral labour agreements because of the fact that immigration is a contentious issue; and (4) the bilateral labour agreements may have limited actual importance, as they do little to facilitate migration or their effect on the treatment of the migrants is limited.

Wickramasekara (2015) echoed these information gaps and evaluation criteria in understanding the operation of bilateral agreements and memoranda of understanding. She argued the necessity of establishing clear criteria for assessing the agreements to guide data collection efforts by both origin and destination countries.

Nonetheless, some useful indicators for the successful design, implementation and evaluation of bilateral agreements can still be identified from the available literature. Wickramasekara (2015) elaborates on how bilateral agreements and memoranda of understanding can enhance the governance of labour migration in several ways by incorporating specific practical measures and evaluation mechanisms into the agreements. She proposed the establishment of joint committees or working groups to oversee the implementation of these measures and recommended that the agreements incorporate a deadline for setting them up. Additionally, she emphasises the importance of regular monitoring and evaluation, discouraging automatic renewal to prevent complacency and advocating independent evaluations before renewals.

Evaluation and monitoring mechanisms

The suggestion put forward in Wickramasekara (2015) proved to be an essential factor in the implementation of at least 6 of the 10 agreements studied in the framework of the semi-structured interviews (see Chapters 4 and 5 for more information). In fact, the fieldwork showed that regular monitoring and evaluation meetings and the avoidance of automatic renewals have an essential role in the positive implementation of the concluded agreements, and in avoiding these agreements becoming 'dormant' with a lack of implementing activities.

Equally relevant is the ISA project ⁽⁶⁶⁾. The ISA project is a collaborative initiative aimed at promoting transnational cooperation in the field of the posting of workers. Its analysis identified that the agreements under focus involved commitments such as data sharing, joint knowledge sharing, training, inspections and awareness-raising activities. At the same time, limited resources posed challenges in implementing these activities despite their being crucial for facilitating cross-border cooperation and enhancing inspectors' knowledge of foreign legislation.

Similarly, a learning resource paper (Stefanov and Mineva, 2017a) from the European Platform Tackling Undeclared Work (EPUW) ⁽⁶⁷⁾ sought to shed light on the differences and commonalities of the existing national and cross-border agreements as well as their key challenges and success factors. The report identifies a number of **success factors for drafting agreements**, starting with the need for the agreements to be considered carefully. Some countries prefer memoranda of understanding as they provide more flexibility, which allows them to be activated and amended as the need arises. Other success factors include clarifying terminology, powers and responsibilities and drawing up a joint inspection plan at an early stage.

The report also describes **a set of challenges** encountered in setting up, operationalising and evaluating agreements. In terms of **setting up agreements**, the following challenges were identified:

- lack of will to support cross-border collaboration and a multiagency approach;
- lack of effective enforcement and overly complex sanctioning procedures;
- absence of relevant legislation and provisions in the penal code and of national action plans, strategies, measures or risk management;
- insufficient investigative powers and legal competences of the labour inspectors both nationally and during cross-border inspections (i.e. there is a need for clear rules of engagement);
- the high cost of inspections and the low value of the evidence collected outweighing the deterrence effect.

Equally important are the challenges identified during the **operational phase of the agreements**:

- budget cost-cutting and insufficient resources on the part of the public authorities;
- differences in legislation, administrative procedures and terminology, leading to difficulties in reaching a common understanding of the phenomena;
- difficulties in deciding on the level of cooperation – simple information sharing, joint actions and rules or full cooperation based on a partnership with common targets.

Lastly, a set of **monitoring and evaluation** challenges were also identified, due to either the lack of evaluation culture or difficulties during the evaluation process itself (e.g. failure to clarify the evaluation methodology and time frame).

⁽⁶⁶⁾ https://www.isaproject.eu/wp-content/uploads/2021/06/Final_report_ISA.pdf.

⁽⁶⁷⁾ Stefanov, R. and Mineva, D. (2017), *National and bilateral agreements and memoranda of understanding to tackle undeclared work*, European Platform Tackling Undeclared Work.

It was also recommended that third parties (e.g. civil society organisations, trade unions, employers' associations) be involved and encouraged to provide an external, unbiased view and assessment. International or interagency groups can also provide advice on all steps in the agreements' drafting, implementation and evaluation.

In particular, the further involvement of social partners is an interesting recommendation. Academic literature also suggests that enforcement authorities and social partners could leverage each other's strengths ⁽⁶⁸⁾. Including social partners in education and training exercises with enforcement authorities and involving social partners in the design, update and implementation of bilateral and multilateral agreements are among the ways in which this could be done. In fact, a number of social partners have concluded tripartite agreements with national governments to tackle undeclared work (e.g. BE, DE, EE, IE, FR). These agreements usually combine sector-specific inspection targets, information exchange and awareness-raising activities. For instance, in 2017–2018 the Belgian trade union General Federation of Belgian Labour signed solidarity agreements with the Polish All-Poland Alliance of Trade Unions, and the Bulgarian Confederation of Independent Trade Unions with the aim of developing cooperation and mutual assistance between trade unions in guaranteeing workers' protection regardless of their national trade union affiliation ⁽⁶⁹⁾. The agreements cover a wide range of cooperation measures, such as exchange of information and advice and legal consultation and assistance.

Segatti (2015) echoed several of these factors that may affect the impacts of bilateral labour agreements. This includes the need to have clear and limited objectives in the set-up phase of the agreements. Similarly, the need for sufficient monitoring and evaluation from the inception was explicitly emphasised. Of the factors that may limit positive impacts, the most important identified was having too many objectives, as this hinders the agreements' effectiveness. Agreements entered into as diplomatic instruments with little evidence to suggest serious intent to implement them were considered ineffective.

3.3. Bilateral and multilateral agreements on labour mobility in the EU

When examining international agreements on labour mobility in the context of the EU, **first and foremost, a distinction** has to be made between **intra-EU mobility** and **migration between the EU and third countries**. As discussed at length above, this study focuses on intra-EU mobility.

Intra-EU (labour) mobility is regulated directly in the EU treaties' provisions on the free movement of EU workers and freedom to provide services, and also in binding EU primary and secondary legislation, including on the free movement of workers and social security coordination. The EU treaties and the relevant primary legislation are integral parts of the national legislative frameworks of Member States. They 'substitute' for (binding) bilateral and multilateral treaties/agreements that Member States would in principle conclude in the absence of such EU legislation.

Binding bilateral agreements nevertheless still exist in areas where the EU has complementary powers and where Member States retain primary competence (e.g. double tax agreements between Member States). This type of agreement, which aims to avoid double direct taxation for those working and residing in two different countries, is relevant for EU mobile workers as the applicable national taxation and social security legislation may be different.

Based on an analysis of relevant EU law, bilateral agreements (in the wider sense of the term) that affect EU labour mobility can still be concluded between Member States if they pursue any of the following main objectives:

⁽⁶⁸⁾ Vitosha Research EOOD, Stefanov, R., Mineva, D. and Terziev, P. (2019), *Social partners and their key role in tackling undeclared work: 12 success stories*, European Platform Tackling Undeclared Work.

⁽⁶⁹⁾ https://www.abvv.be/sites/abvv/files/news/link_doc/getekende-solidariteitsovereenkomst-citubabvv-engels.pdf; <https://www.abvv.be/het-abvv-ondertekent-samenwerkingsakkoord-met-duitse-vakbond-dgb>.

- **to deepen the mutual rights and obligations** between Member States beyond what is regulated at the EU level (e.g. Article 350 of the Treaty on the Functioning of the European Union, regarding the Benelux Treaty ⁽⁷⁰⁾);
- **to deviate from EU legislation when this is explicitly allowed** (e.g. Article 16 of Regulation (EC) No 883/2004 (basic social security coordination regulation)) ⁽⁷¹⁾;
- **to complement the EU treaties / EU legislation on labour mobility at more technical levels or on administrative cooperation** (agreements in the broader sense of the term, e.g. Article 21, paragraphs 2 and 3, of Directive 2014/67/EU (the enforcement directive)) ⁽⁷²⁾.

With regard to the first category, the Benelux Treaty is an example of a treaty concluded between Member States where the main objective is to **deepen the mutual rights and obligations** of the participating Member States. Benelux plays the role of a testing ground or laboratory within the EU ⁽⁷³⁾. The Treaty on the Functioning of the European Union even explicitly states that the Benelux is the only region that has the right to set up collaborations that go beyond the scope of the EU (Article 350) ⁽⁷⁴⁾.

A second category of agreements are those by which Member States can **deviate from binding EU legislation**. In the context of EU labour mobility, the EU social security coordination regulations are directly applicable in the Member States and their provisions are mandatory. Member States can conclude bilateral or multilateral agreements that deviate from the main principles and rules of the applicable legislation established in Articles 11–15 of Regulation (EC) No 883/2004 (basic coordination regulation) in the interests of certain persons or categories of persons. Such agreements need to be communicated to the European Commission ⁽⁷⁵⁾.

The framework agreement on cross-border telework in the EU, European Economic Area and Switzerland is a recent example of a multilateral agreement that is based on Article 16 of Regulation (EC) No 883/2004 ⁽⁷⁶⁾. The agreement is at present in force in 20 signing states. Belgium acts as the depositary state. The framework agreement prevents, under certain conditions, a change of social security affiliation where the work carried out is cross-border telework from the country where the employer has its registered office to the country of residence of the worker when such telework does not exceed 50 % of the working time. The agreement entered into force in the 20 signing countries on 1 July 2023 for a duration of 3 years.

The third category of bilateral agreements aims to **complement EU labour mobility legislation**. Government and other public (as well as private) bodies from Member States have concluded various types of agreements with counterparts from other Member States that are relevant to EU labour mobility to strengthen mutual cooperation. These agreements have been named in various ways (e.g. agreements, cooperation agreements, arrangements, memoranda of understanding, protocols, letters of intent, joint declarations). The scope of this type of agreement is by definition limited and constrained by the competence and mandate that the concluding parties have within their national constitutional and legislative contexts. Such agreements focus on the operationalisation and implementation of EU legislation in a cross-border context and on the administrative cooperation and information exchanges between the various national institutions in charge of the implementation and enforcement of EU law.

Different types of these bilateral agreements can be distinguished depending on the **category of the contracting parties**.

⁽⁷⁰⁾ Treaty revising the treaty establishing the Benelux economic union concluded on 3 February 1958 (https://www.benelux.int/wp-content/uploads/2023/02/BeneluxVerdrag_2008.pdf).

⁽⁷¹⁾ Member States may by common agreement deviate from the rules concerned with the applicable legislation established under Articles 11–15 of Regulation (EC) No 883/2004.

⁽⁷²⁾ 'Member States may apply bilateral agreements or arrangements concerning administrative cooperation and mutual assistance between their competent authorities as regards the application and monitoring of the terms and conditions of employment applicable to posted workers referred to in Article 3 of Directive 96/71/EC. Member States shall inform the Commission of the bilateral agreements and/or arrangements they apply and shall make the text of those bilateral agreements generally available.'

⁽⁷³⁾ <https://www.benelux.int/en/information-for-citizens/benelux-union/a-laboratory-for-europe/>.

⁽⁷⁴⁾ [https://www.benelux.int/en/information-for-citizens/benelux-union/a-laboratory-for-europe/#:~:text=Through%20its%20groundbreaking%20projects%2C%20the,doing%20\(Article%20350%20TFEU\)](https://www.benelux.int/en/information-for-citizens/benelux-union/a-laboratory-for-europe/#:~:text=Through%20its%20groundbreaking%20projects%2C%20the,doing%20(Article%20350%20TFEU)).

⁽⁷⁵⁾ Directorate-General for Employment, Social Affairs and Inclusion, Unit E2.

⁽⁷⁶⁾ <https://socialesecurity.belgium.be/en/internationally-active/cross-border-telework-eu-eea-and-switzerland>.

The first type is agreements concluded between **public entities** such as national governments, individual ministries, public bodies, executive agencies, enforcement agencies and regional authorities. These ‘public’ agreements aim to complement the EU legislation and promote cooperation between these **public stakeholders** involved in the wider implementation and enforcement of EU labour mobility legislation. These agreements focus on a more operational level and/or technical issues and on various cross-border cooperation mechanisms and information exchanges between these ‘public’ agencies. They include the following types of agreement.

- Agreements between governments (signed by prime ministers) from different Member States (and/or from different regional levels in federal states).
- Agreements between ministries at the state (and/or regional) level from different Member States.
- Agreements between executive agencies or enforcement bodies from different Member States.
- ‘Mixed’ public agreements (e.g. between a regional authority or enforcement agency and a national enforcement agency, or between a ministry and an enforcement agency). Agreements between regional and national authorities have a more territory-oriented scope as they are applicable specifically in a particular region of a Member State.

Second, and of a slightly different nature, are the **‘mixed’ agreements** (memoranda of understanding and/or protocols) that are concluded between public entities on the one hand and semi-public and/or paritarian bodies managed by social partners, and/or with social partners directly, on the other. Such paritarian bodies or social partners have often been entrusted with the management of specific social security branches or funds in Member States, such as funds for the contributions and payments related to annual holiday payments for workers. Workers’ representative bodies are in some Member States also entrusted with labour inspection responsibilities (e.g. occupational safety and health (OSH)), and function as a direct counterpart to the ‘public’ enforcement agencies in other Member States.

An example of such a ‘mixed’ agreement is the 2018 bilateral agreement concluded between the National Social Insurance Institution of Poland (ZUS) and the German Holiday Fund (SOKA-BAU) for the construction sector, which is a paritarian body managed by social partners ⁽⁷⁷⁾. Companies that operate in the German construction sector are obliged to register with SOKA-BAU. Mandatory employers’ contributions to the workers’ annual leave scheme, which are deducted from monthly gross salary, are paid to SOKA-BAU. However, most posted workers do not take their annual leave in Germany, creating a need to transfer these funds as unpaid leave to these workers. Moreover, the contributions paid to the German holiday fund need to be taken into account in the calculation basis for the social insurance contributions in Poland, which are based on the Polish Labour Code. Through the agreement, ZUS obtains information and data on the wages that have been paid to workers who are posted from Poland to Germany and on the contributions paid to the holiday fund in order to verify whether the latter are effectively taken into account under the Polish social insurance system. At the same time, ZUS ensures that workers who have been posted to Germany and consequently have had contributions paid to the holiday fund can still claim these payments if they have unused leave. A similar agreement exists between ZUS and the Austrian Construction Workers’ Holiday and Severance Pay Fund.

Similar agreements have been concluded between the French building and public works bad weather leave fund (the paid holiday fund in the construction sector) and the French Union of Funds (Union des caisses en France), and the SOKA-BAU (Germany), the Construction Workers’ Holiday and Severance Pay Fund (Austria) and the National Joint Commission for Construction Funds (Italy). As in Germany, foreign companies in the construction sector that have activities in France must join the building and public works bad weather leave fund (construction sector paid holiday fund) when they post workers to France. The French Labour Code allows for an exemption from this obligation if the companies prove that their workers benefit from their paid leave rights for the period of the posting under conditions that are at least equivalent to those provided for by the French legislation. On the basis of these ‘exception’ agreements between these national holiday funds,

⁽⁷⁷⁾ Kus, J. (2021), *Guidelines – Agreement between the Social Insurance Institution (ZUS) (Poland) and SOKA-BAU (Germany), Information Sharing Agreements.*

companies may continue to pay the contributions for the annual leave schemes in the sending country when they send their construction workers abroad ⁽⁷⁸⁾.

Finally, the third type of agreements is those that have been concluded between **(private) workers' representative bodies** established in different Member States with a view to assisting (posted) foreign workers in the host Member State with legal advice, representation, information provision and so on. These agreements are concluded between 'private' organisations or trade unions who represent the interests of the workers (and increasingly also of the solo self-employed) and/or have been entrusted in some Member States with specific responsibilities for the monitoring of compliance with regard to working conditions or for the management of social security schemes.

In conclusion, Section 3.3 has made a distinction between intra-EU mobility and migration between the EU and third countries. This report only deals with the former category. Chapter 3 has also categorised the agreements by the type of contracting party. However, bilateral agreements dealing with intra-EU labour mobility can also be analysed in light of their objectives, as this chapter has pointed out. In fact, this report primarily aims to examine those agreements that complement the EU treaties / EU legislation on labour mobility on more technical levels or with regard to administrative cooperation (agreements in the broader sense of the term, for example Article 21, paragraphs 2 and 3, of Directive 2014/67/EU) ⁽⁷⁹⁾, and predominantly those agreements concluded by public entities, such as governments, ministries and executive and enforcement agencies operating at the national and local levels of the administration.

⁽⁷⁸⁾ Iudicone F., Zheleva, M., Antova, D., Turlan, F., Baron, B. M. et al. (2021), *ISA – Final report*, Information Sharing Agreements.

⁽⁷⁹⁾ See note 71.

4. Overview and analysis of the bilateral and multilateral cooperation agreements in the field of EU labour mobility with a focus on posting

4.1. Collection of the agreements

As was explained extensively in the literature review (Chapters 2 and 3), **there is very little literature or research on agreements that focus specifically on the posting of workers in the context of the free provision of services**. In addition, there is at present no single or other EU depository for the bilateral agreements in focus, and those collected are neither systematically or centrally registered nor published, although some attempts to collect them have been made.

As an example, following the adoption of Directive (EU) 2018/957 (the Enforcement Directive), Member States are in some cases obliged to inform the European Commission of the bilateral agreements that they have concluded and have to make the bilateral agreements ‘generally available’ (Article 21 of the Enforcement Directive). Nevertheless, these agreements are not registered centrally in a publicly accessible online database or overview.

On another note, Article 5 of the Enforcement Directive envisages an obligation for Member States to ‘**publish on a single national website accurate and updated information on the terms and conditions of employment applicable to posted workers**’. Albeit this information obligation refers to the terms and conditions of employment referred to in Article 3 of Directive 96/71/EC, one might wonder whether bilateral and/or multilateral agreements in the area of posting could also realistically be published on national websites from national stakeholders and/or in the national official journals. However, hardly ever are these agreements made public. Therefore, the online tracing of these agreements has been a challenging undertaking.

An attempt to collect bilateral agreements has been made by the SLIC, which produces e-handbooks entitled *Cross-border enforcement – OSH for mobile workers* for all Member States ⁽⁸⁰⁾. In these e-handbooks, overviews are presented indicating with which other Member States bilateral agreements have been concluded on cross-border labour mobility and the enforcement of OSH. Based on an analysis of these national overviews conducted by the ELA, it appears that some 86 bilateral and multilateral agreements have been concluded across the EU. However, the e-handbooks do not cross-reference to the links and/or the texts of the agreements.

In light of these difficulties encountered during the initial phase of this research, the study team relied on additional sources, which were indispensable in collecting as many concluded agreements as possible. These include:

- the support of the NLOs at the ELA;
- the Eurodétachement project;
- the report *Fraud and error in the field of EU social security coordination – Reference year 2021* ⁽⁸¹⁾;

⁽⁸⁰⁾ https://circabc.europa.eu/ui/group/fea534f4-2590-4490-bca6-504782b47c79/library/1320c0b5-d9d2-48a9-8610-9c84f5436b8f?p=1&n=10&sort=modified_DESC.

⁽⁸¹⁾ European Commission (2023), *Fraud and error in the field of EU social security coordination – Reference year 2021*, Brussels.

- the ELA's ad hoc request to the Member States, entitled 'Overview of national legislation foreseeing a legal basis to share inspection-related information with other authorities';
- a survey circulated among 21 Member States (see findings in Chapter 5);
- semi-structured interviews on a selection of cooperation agreements (selected on the basis of the findings of an initial analysis based solely on the texts collected from the first four sources (see findings also in Chapter 5)).

The combined effort led to the identification of 98 agreements, but it proved impossible to find the texts of 23 of these agreements. Additionally, **only 60 of the agreements identified related directly to the subject matter of this report, namely the posting of workers in the context of the free provision of services.** The signatories to these agreements are members of the European Economic Area, including Norway. While not all the agreements collected solely include EU Member States, some have still been included in the overview and analysis as they reflect relevant regional dimensions.

Table 2. Sources for the 60 agreements on EU labour mobility collected

Source	Bilateral agreements collected	Multilateral agreements collected
National liaison officers	16 BE–RO, CZ–DE, CZ–NL, CZ–PL, DK–LT, DK–LV, DK–PL, DK–RO, DK–SK, EE–LV, ES–PT, FR–PT, LT–LV, NO–PL, PL–SK, PT–RO	2 DK–FI–IS–NO–SE, EE–LT–LV
Eurodétachement	21 BE–FR, BE–LU, BE–PL, BE–PT, BG–FR (2008, 2017), BG–PT, DE–FR, EE–FI, ES–FR, ES–PL, ES–PT, ES–RO, FR–IT, FR–LU, FR–NL, IE–PT, LU–PL, LU–PT, NL–PT, PL–PT	1 BE–LU–NL (20.2.2014)
<i>Fraud and error in the field of EU social security coordination report</i>	5 AT–DE, BE–NL, BG–NL, CZ–FR, NL–PL (2008)	1 BE–LU–NL (13.2.2014)
European Labour Authority ad hoc request	7 BG–DE, BG–NO, CZ–PL, DE–FR, DE–NL, IT–RO, NL–PL (2013)	0
Survey	3 BG–CY, CZ–SK, RO–SK	1 BG–EL–RO
Interviews	3 EE–NO, EE–PL, LU–PT	0

Only two agreements that were concluded by social security institutions have been retained in the final overview and database (EE–LV (2016), LT–LV (2011)). All other agreements dealing exclusively with the administrative exchange of citizens' data for the purpose of granting social security and/or welfare benefits have not been included in the final database or the consequent analytical work as they are considered less relevant for the purposes of the study, namely **the collection of agreements between two or more Member States that regulate labour mobility, particularly related to posting, with a focus on professionally active persons of working age regardless of their employment status.**

The two agreements retained focused on **exchange of information on insurance periods, benefit amounts and certificates of life**, and initial research demonstrated that they were very well structured and allowed the relevant institutions to efficiently communicate the potential changes of residence of a worker (resulting in the allocation of due benefits paid by one of the two states). Linked to this observation, it was found that because these bilateral agreements are well structured (i.e. there is a well-defined information-exchange format and precise time frames are established), other competent authorities in the field of posting often monitor the correct application of posting rules by using the information gathered through this type of agreement.

In the search for and collection of relevant bilateral agreements, the ELA NLOs and the Eurodétachement project made key contributions. Eurodétachement provided the study team with the links to and/or texts of **22 bilateral/multilateral agreements**. An additional **18 relevant agreements** were identified and/or collected with the help of the ELA NLOs.

Additional desk research was carried out on the basis of the 2023 European Commission **report on fraud and error in the field of EU social security coordination** ⁽⁸²⁾. The report contains in its Annex II an inventory of the bilateral agreements aimed at tackling fraud and error in the EU social security coordination domain, which 24 Member States ⁽⁸³⁾, Iceland, Norway, Switzerland and the UK have concluded and which were in force as of 2021. This 2023 inventory does not contain information on Cyprus, France or Slovenia (unless it is reported by the Member State with which one of them has concluded a bilateral agreement), but it encompasses in addition data obtained from Iceland, Norway, Switzerland and the United Kingdom ⁽⁸⁴⁾. However, the latter countries are not subject to the analysis of this report.

Of the around 100 bilateral agreements reported on, a large majority (more than 80 %) deal with cooperation and information exchange between national social security institutions on issues that are specific to the coordination of branches of social security (mainly pensions), such as the personal data and personal identification number (PIN) of cross-border workers, insurance records, pension amounts paid and the certificate of life (for cases of the unreported decease of insured persons). However, on the basis of the (limited) information contained in the inventory, 20 agreements appear to focus on (1) **combating social fraud, undeclared work, illegal employment and fraudulent cross-border employment including temporary work** or (2) **increased cooperation with a view to a more effective enforcement of the posting rules**. While they often seem to have been, at least in part, concluded from a social security (coordination) angle, they appear nevertheless to be of relevance for the present study on EU labour mobility agreements. In addition, some of these bilateral agreements establish general administrative cooperation measures in the field of social security. These two types of bilateral agreement have been included in the remit of the study. However, only for **six of the 20 bilateral agreements identified were the texts obtained through online research**.

The study team also analysed the answers provided by 27 Member States to an **ad hoc request from the ELA entitled ‘Overview of national legislation foreseeing a legal basis to share inspection-related information with other authorities’** where there was a specific question asking respondents to indicate, if possible, ‘a couple of examples of relevant and publicly available bilateral/multilateral agreements and describe how information is shared under them’. In this way, seven additional agreements were included in the analysis.

Through this initial analysis, the study team obtained 53 BMLAs for which the text was available. Subsequently, the survey launched among 21 Member States on 13 February 2024 **produced a further three bilateral agreements relevant to the study**. A final **four agreements** were discovered during the semi-structured interviews.

⁽⁸²⁾ European Commission (2023), *Fraud and error in the field of EU social security coordination – Reference year 2021*, Brussels.

⁽⁸³⁾ The information on Cyprus, France and Slovenia is not provided in the report.

⁽⁸⁴⁾ The information on Portugal does not mention bilateral agreements but refers to bilateral cooperation with Belgium and the Netherlands in order to combat fraudulent postings and with Switzerland and Ireland in the area of pensions; the information on Hungary, Iceland and Romania also does not mention bilateral agreements and Iceland is only included in the multilateral Nordic agreement on exchange of information, data and insurance records between social security administrations. The information on the United Kingdom refers to the bilateral agreement with Ireland and to preparations with different Member States mainly in the area of unreported deaths and pensions (DK, DE, ES, MT, NL, PL).

4.2. Overview of the agreements collected

The 60 agreements collected were subject to a desk analysis in terms of their key features:

- (1) countries involved
- (2) type of contracting party
- (3) signatory date / date of entry into force
- (4) thematic scope
- (5) level of detail
- (6) types of cooperation measures covered
- (7) monitoring and review clauses.

The data and information on the 60 agreements have been incorporated into a structured Excel database that accompanies this report. The agreements are presented by country and in alphabetical order (see Table 3). The database contains two separate sheets: (1) a **general overview** indicating which agreements the study team was able to analyse for each country, based on the abovementioned sources, and (2) a **detailed overview** of the agreements with data on their titles, the countries and signatory parties, hyperlinks to their published texts on national websites, dates of adoption and of entry into force, and their main thematic scope.

Table 3. General overview of the 60 agreements on EU labour mobility collected

Country	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IS	IT	LI	LT	LU	LV	MT	NL	NO	PL	PT	RO	SE	SI	SK	
AT						B																									
BE																				B	Mx2			B	Mx2		B	B	B		
BG						B																		B		B	B	M			
CY																															
CZ																															
DE	B																														
DK																															
EE																															
EL																															
ES																															
FI																															
FR	B																														
HR																															
HU																															
IE																															
IS																															
IT																															
LI																															
LT																															
LU	B	Mx2																													
LV																															
MT																															
NL	B	Mx2	B																												
NO																															
PL	B																														
PT	B																														
RO	B																														
SE																															
SI																															
SK																															

NB: The table provides an overview of all 60 agreements identified for which the texts have been collected, as well as showing between which countries the cooperation agreements have been concluded. The letter B signifies the existence of a bilateral agreement, while the letter M signifies the existence of a multilateral agreement. The text x2 is added when multiple agreements exist between two (or more) of the same countries.
 Source: The authors.

The initial desk analysis indicated that some countries (FR, PL, PT) had concluded a high number of agreements, while it appeared that nine countries had not concluded any bilateral agreement (CY, EL, HR, HU, LI, MT, SI) at all. After analysis of all available sources, the countries with the most agreements were Portugal (12 agreements); Poland and France (11 agreements each); and the Netherlands (10 agreements). No agreements were collected for seven countries (HR, HU, LI, MT, SI).

Table 4. Number of agreements identified by country

Country	MA in force	BA in force	Total
AT	0	1	1
BE	2	6	8
BG	1	7	8
CH	0	0	0
CY	0	1	1
CZ	0	6	6
DE	0	6	6
DK	1	5	6
EE	1	4	5
EL	1	0	1
ES	0	5	5
FI	1	1	2
FR	0	11	11
HR	0	0	0
HU	0	0	0
IE	0	1	1
IS	1	0	1
IT	0	2	2
LI	0	0	0
LT	1	2	3
LU	2	5	7
LV	1	3	4
MT	0	0	0
NL	2	8	10
NO	1	3	4
PL	0	11	11
PT	0	12	12
RO	1	6	7
SE	1	0	1
SI	0	0	0
SK	0	4	4
UK	0	0	0
TOTAL	17	110	127

NB: The table provides an overview of the number of bilateral and/or multilateral agreements a given country has concluded. BA = bilateral agreement; MA = multilateral agreement.

Source: The authors.

The differences between countries in the number of agreements they have concluded can be attributed to two major factors. First, it appears that those countries with the highest number of agreements are major net sending/receiving countries in terms of postings ⁽⁸⁵⁾. Second, analysis suggests that the decision to enter into agreements with other countries triggers a chain effect, facilitating the subsequent conclusion of agreements with other countries. This is exemplified by countries such as Belgium, France, the Netherlands and Poland, which have concluded an above-average number of agreements. These agreements exhibit remarkable similarity in terms of structure, scope, type of cooperation and duration. In other words, when a country identifies an effective agreement framework, it is inclined to propose this format to other potential collaboration partners.

⁽⁸⁵⁾ <https://hiva.kuleuven.be/en/news/docs/posted-workers-in-the-european-union-facts-and.pdf>.

However, whether or not this kind of model then leads to the actual implementation of the agreement itself is a different matter. Additional (field) research by means of the survey and of direct contact with the implementing actors was conducted to verify whether (all) the agreements collected are still operational in the enforcement practices of the countries concerned (see Chapter 5).

The 60 agreements collected were further subject to a desk analysis in terms of their key features: (1) the type of agreement, (2) the type of contracting parties and (3) the time of conclusion. This is dealt with in this section. The next section (Section 4.3) then delves into the textual analysis of the 60 agreements, providing an overview of the main objectives of the agreements and the type of cooperation they envisage.

4.2.1. The naming of the agreements

It is clear that states have used **different terms to refer to the international instruments by which they have established rights and obligations among themselves** in the area of EU labour mobility. The terms used to name the agreements include ‘agreement’, ‘joint statement’, ‘joint declaration’, ‘memorandum’, ‘memorandum of cooperation’, ‘memorandum of understanding’, ‘convention’ and ‘treaty’. A large majority of these international instruments are named ‘agreement’, while most others are entitled ‘memorandum’ or ‘joint statement/declaration’ (see Table 5). Only three are named ‘treaty’ or ‘convention’.

The terms ‘treaty’ and ‘convention’ generally refer to international agreements that are binding upon the contracting states and subject to ratification and deposit, whereas an ‘agreement’ is the most generic concept and most often used when the bilateral agreement deals with administrative cooperation and exchange of information at the operational (enforcement) level.

When governments, public administration bodies or enforcement agencies from different states aim to establish administrative cooperation or information exchanges with their counterparts in other states in the field of EU labour mobility, the terminology of ‘agreement’ or ‘memorandum of understanding’ is most often used to name the international agreement concerned.

Table 5. Terms used for the agreements

Name of the agreement	Agreements collected	Number
Treaty	AT–DE, BE–NL	2
Convention	BE–LU–NL	1
Agreement	BE–FR, BE–LU, BE–PL, BE–PT, BE–RO, BG–CY, BG–DE, BG–FR (2008), BG–FR (2017), BG–NO, BG–PT, CZ–DE, CZ–FR, CZ–PL (2005), CZ–SK, DE–FR (2001), DE–FR (2008), DE–NL, DK–FI–IS–NO–SE, EE–FI, EE–LT–LV, EE–LV, EE–NO, EE–PL, ES–FR, ES–PL, ES–PT (2003), FR–IT, FR–LU, FR–NL, FR–PT, LT–LV, LU–PL, LU–PT (2011), NL–PL (2008), NL–PT, NO–PL, PL–PT, PL–SK, RO–SK	40
Memorandum	CZ–NL, CZ–PL (2023), ES–PT (2017), ES–RO, IE–PT, IT–RO, LU–PT (2022), NL–PT, PT–RO	9
Joint declaration	BE–LU–NL, NL–PL (2013)	2
Joint statement	BG–NL, DK–LT, DK–LV, DK–PL, DK–RO, DK–SK	6

4.2.2. The signatory parties to the 60 agreements collected

Of the 60 agreements collected, 55 were concluded by two countries. These 55 bilateral agreements (most often) establish direct cooperation between similar public institutions or institutions that have similar competences in the respective countries.

There are only five instances of cooperation agreements concluded by more than two countries (two agreements concluded by BE–LU–NL, one by EE–LT–LV, one by BG–EL–RO, and one by DK–FI–IS–NO–SE).

The initial analysis of the agreements collected reveals that there are generally four types of actors that are signatories to the agreements:

- governments (when the prime minister signed the agreement),
- ministries,
- enforcement agencies (inspectorates),
- other public institutions (social security institutions, employment agencies).

However, one of the agreements identified (EE–FI (2014)) was signed by a regional department of a national institution operating at the regional level and a national enforcement agency from another state. This may point to its relevance for the present study focusing on the operational levels of cooperation. A few agreements are mixed – that is, they were concluded by a ministry on the one hand and by an enforcement agency on the other. In some cases, several institutions are signatory parties on behalf of the state that is concluding an agreement with another state (e.g. in Belgium, the ministry and the labour inspectorate for some bilateral agreements).

In 5 of the 60 agreements collected, **governments** were the main actors and signed the agreements; 28 agreements were concluded between **ministries**, while another 7 were concluded between ministries (see Table 6). In the remaining 20 cases, 14 agreements were concluded directly between inspectorates from different states, while six were concluded between public social security institutions or other enforcement agencies.

A further distinction can be made within these categories depending on the domains for which the actors are competent. With regard to the **ministries**, three main types can be distinguished, namely the ministry of finance/budget (four agreements), the ministry of labour/employment (23 agreements) and the ministry of social affairs (social security / social protection / social assistance / welfare) (14 agreements). Other ministries involved include family (three agreements), health (one agreement) and migration (three agreements), often when the competences of the signing ministry are combined with other social policy domains, such as labour or social protection.

Despite the fact that two agreements (i.e. BE–LU–NL (13.2.2014), LU–PT (2022)) mention the importance of also monitoring the correct application of posting rules in the field of road transport (LU–PT (2022) also explicitly mentions the recent Directive (EU) 1057/2020), no national (road) traffic authorities or ministries or traffic/road police were involved. Yet these are key institutions with regard to the enforcement of the posting rules in the international road transport sector⁽⁸⁶⁾. This is also confirmed by a recent ELA report (*Cooperation obligations and practices in the enforcement of EU rules on international road transport in the EU*), which noted that the conclusion of bilateral or multilateral cooperation agreements with other Member States in the application of road transport does not seem to be a common practice in the EU-27. Many Member States reported that they either do not have such bilateral cooperation agreements in place or, if they do, that these bilateral agreements are not specific to the international road transport sector. This is despite the fact that more cooperation seems to exist with those Member States with which (general) bilateral agreements or protocols are in place.

⁽⁸⁶⁾ European Labour Authority (2023), *Cooperation obligations and practices in the enforcement of EU rules on international road transport in the EU – Final report*, Bratislava.

Interesting is the fact that, apart from the five agreements concluded by governments and which presumably cover different policy fields, no agreements were detected that were signed jointly by tax, labour and/or social ministries or their corresponding enforcement agencies. This finding suggests a horizontal spread and fragmentation of implementation and enforcement responsibilities between national public institutions in these countries. It may also substantiate the need for increased national and interagency cooperation, especially in areas such as cross-border bogus self-employment, letterbox companies, fraudulent posting constructions and cross-border fraud, and error in applying the prevailing social security coordination and employment rules.

Table 6. Signatory parties to the agreements

Signatory parties	Agreements collected	Total
Governments	BE-LU-NL (13.2.2014), BE-LU-NL (20.2.2014), BE-NL, DE-NL, DK-FI-IS-NO-SE	5
Ministries	AT-DE, BE-FR, BE-RO, BG-CY, BG-DE, BG-EL-RO, BG-FR, BG-NL, CZ-DE, CZ-FR, CZ-NL, CZ-SK, DE-FR (2001), DE-FR (2008), DK-LT, DK-LV, DK-PL, DK-RO, DK-SK, ES-FR, ES-PT (2017), FR-LU, FR-NL, FR-PT, IT-RO, NL-PL (2008), NL-PT, RO-SK	28
Ministries and enforcement agencies	BG-FR, BG-NO, BG-PT, LU-PT (2011), LU-PT (2022), PL-PT, PT-RO	7
Inspectorates	CZ-PL (2005), CZ-PL (2023), EE-LT-LV, EE-NO, EE-PL, ES-PL, ES-PT (2003), ES-RO, FR-IT, IE-PT, LU-PL, NL-PL (2013), NO-PL, PL-SK	14
Enforcement agencies	BE-LU, BE-PL, BE-PT, EE-FI	4
Social security institutions	EE-LV, LT-LV	2

4.2.3. The timing of the agreements

When observing the date of signature of the 60 agreements collected, a common thread is that a majority (39 agreements) were signed before the adoption (i.e. 15 May 2014) and the entry into force (i.e. 18 June 2016) of Directive 2014/67/EU (the enforcement directive), which established a common framework of a set of appropriate provisions, measures and control mechanisms necessary for better and more uniform implementation, application and enforcement in practice of Directive 96/71/EC.

Twelve of the agreements collected that were concluded after the adoption of the enforcement directive make an explicit reference to this directive in the text (i.e. BE-LU-NL, BG-FR, DK-LT, DK-LV, DK-PL, DK-RO, EE-PL, FR-BG, FR-IT, FR-PT, IE-PT, LU-PL, NO-PL). Only five of the agreements collected were concluded in recent years: IE-PT (2019), FR-IT (2020), IT-RO and LU-PT (2022) and CZ-PL (2023).

Chapter 5 also deals with the question of how the agreements adopted after 2014 complement the newly adopted European legislation on posting, as well as determining how the establishment of the ELA and the use of the IMI have changed the rationale of cooperation agreements in this area.

4.3. Textual analysis of the agreements collected

From the textual analysis of the 60 agreements collected, it is possible to make a number of observations relating to (1) the thematic scope and (2) the type of cooperation measures included.

4.3.1. Thematic scope

Regarding the thematic scope of the agreements analysed, a discernible pattern emerges with approximately eight predominant themes. Table 7 organises the 60 agreements according to the central labour mobility issues they address, including in the context of posting. These agreements frequently span multiple policy domains.

Table 7. Thematic scope of the agreements

Thematic scope	Agreements collected	Number
Posting	BE-LU, BE-LU-NL, BE-NL, BE-PL, BE-PT, BG-CY, BG-EL-RO, BG-FR (2008), BG-FR (2017), BG-NO, BG-PT, CZ-FR, CZ-NL, CZ-PL, DK-LV, DK-PL, DK-PT, DK-RO, DK-SK, EE-FI, EE-LT-LV, EE-NO, EE-PL, ES-FR, ES-PL, ES-PT (2003), ES-RO, FR-IT, FR-LU, FR-NL, FR-PT, IE-PT, LU-PL, LU-PT (2011), LU-PT (2022), NL-PT, NO-PL, PL-PT, PL-SK, PT-RO	43
Occupational health and safety	BE-LU, BE-PL, BE-PT, BE-RO, BG-CY, BG-EL-RO, BG-NO, BG-PT, CZ-PL (2005), CZ-PL (2023), EE-FI, EE-LT-LV, EE-NO, ES-PL, ES-PT (2003), ES-RO, FR-IT, LU-PL, LU-PT (2011), LU-PT (2022), NL-PL, PL-PT, PL-SK, PT-RO	24
Undeclared work and/or illegal work	AT-DE, BE-FR, BE-LU-NL, BG-DE, BG-FR (2017), BG-NO, CZ-DE, CZ-NL, DE-FR, DE-NL, EE-PL, FR-PT, IT-RO, LU-PT, NL-PL, NL-PT	16
General cooperation	AT-DE, BE-FR, BE-LU-NL, BE-RO, BG-NL, DK-FI-IS-NO-SE, ES-PT (2003), ES-PT (2017), FR-IT, NL-PL	10
Labour mobility	AT-DE, BE-FR, BE-RO, BG-NL, CZ-DE, CZ-PL, DK-FI-IS-NO-SE, NL-PL, NO-PL	9
Social security coordination	BE-NL, BG-FR, CZ-DE, CZ-FR, DE-FR, DE-NL, EE-LV, FR-NL, LT-LV, NL-PT	10
Social assistance	BE-LU-NL, CZ-NL	2
Seasonal work	EE-LT-LV	1

It is clear from the table that most agreements focus on **posting** and on the **health and safety conditions** of workers (sometimes with specific reference to posted workers).

Besides those agreements that mainly focus on improving the working conditions of posted workers (from both labour law and health and safety perspectives), the next largest category is of agreements that focus on **undeclared work and/or illegal employment**. Despite the need for further clarification and legal interpretation, these two specific labels are mentioned in the texts of the agreements. Regrettably, the absence of official texts in their original language necessitated reliance on translated (non-official) versions, which potentially impacted the nuances of these concepts. Nevertheless, it is evident that in at least 16 agreements, the primary objective is combating/fighting illegal/undeclared work in the context of cross-border employment practices.

Another thematic focus that is of interest in several of the agreements studied pertains to **general cooperation**. In these instances, there appears to be no detailed framework for how cooperation is to be conducted, suggesting that the aim of countries entering into such agreements is to establish a first basis for broad cooperation. Among the agreements primarily centred on general cooperation, 8 out of 10 are relatively dated (predating 2014), with more recent agreements displaying a tendency towards greater detail and specificity.

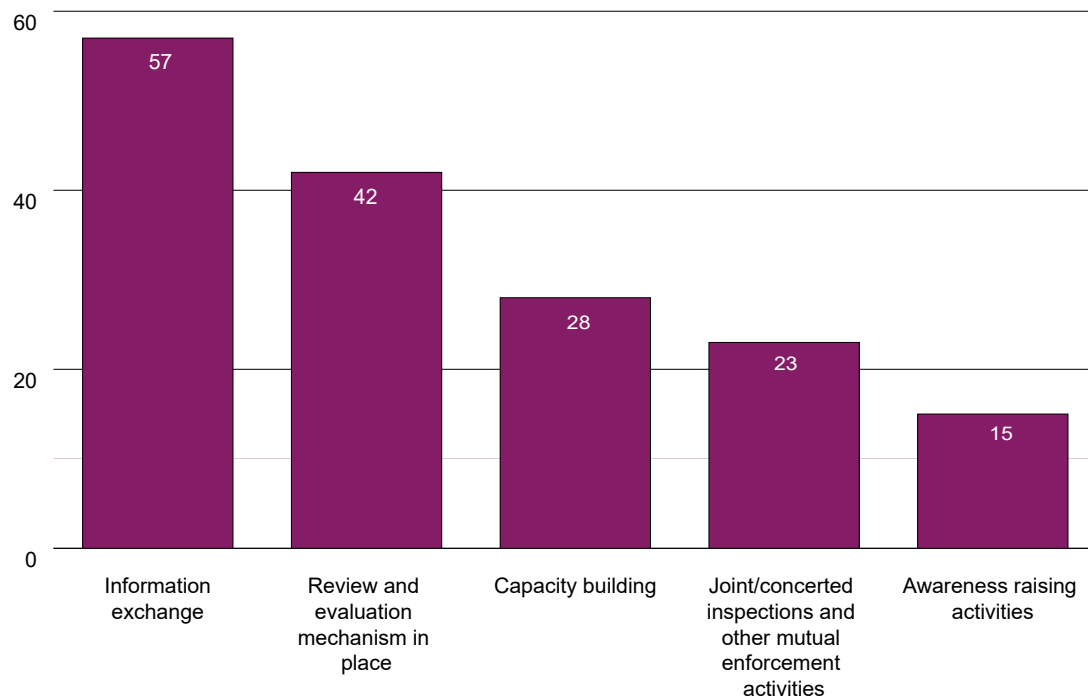
The category of **labour mobility** includes all those agreements that, although they have provided for general and not particularly detailed cooperation (and could therefore be included in the category above, general cooperation), have a specific purpose to foster cooperation in the area of international/EU labour mobility. Two agreements can serve as examples in this regard.

The BE–LU–NL (2014) agreement was classified exclusively as ‘general cooperation’, while BE–RO (2013) also featured in the category ‘labour mobility’. Reading the objectives of the two agreements, the former states in Article 1.1 that **‘The authorities, bodies and groups of cooperation referred to in the first paragraph of Article 2 may cooperate in a cross-border and inter-territorial manner in order to defend common interests’**. Conversely, the latter agreement states in its Article 1 that **‘The Parties agree to expand labour and employment cooperation’**. It was therefore thought appropriate to emphasise those cases in which the wording on cooperation, although not very detailed, at least indicated the aim of developing (general) cooperation in the field of labour (mobility) law.

The last set of agreements deal with the issue of posting in conjunction with checks that social security institutions carry out. Unlike the agreements mentioned previously (EE–LV, LT–LV), the signatory authorities of these agreements are not social security institutions, and the subject matter is not primarily the exchange of data for the provision of benefits, but rather determining which is the correct social security legislation applicable, in the case of posting.

4.3.2. Types of cooperation measures

Upon examination of the available agreements, it becomes apparent which cooperation measures are most frequently favoured among the countries in question. Figure 1 illustrates the types of cooperation mentioned across different agreements.

Figure 1. Types of cooperation measures mentioned in the agreements analysed

NB: The figure shows the number of agreements that include the cooperation activities mentioned.
 Source: The authors.

Before delving into the description of the various types of cooperation identified, it is pertinent to address the structure observed within the agreements. As previously noted in the discussion on the countries with the highest number of agreements, it is evident that agreements often exhibit a similar structure. Key information (e.g. objectives, cooperation measures, methods of cooperation, duration of the agreement, methods of reviewing the agreement, data protection) is more often than not placed within the same articles and described with the same phrasing. As mentioned previously, this can in part be linked back to the fact that a state opts for an 'ideal framework' for an agreement and then transposes it to other states with which it wants to establish/formalise cooperation.

That being said, the structure of the agreements typically includes an article dedicated to outlining the type of cooperation. This article can be comprehensive, for example as in the case of Article 4 of the CZ–NL agreement from 2008, which specifies various cooperation measures, such as exchange of information, selection of contact points and joint planning of prevention activities. However, in a minority of cases, albeit a significant number, the manner in which cooperation is to be carried out is not explicitly detailed (e.g. BG–NL, all agreements with DK, ES–FR, FR–LU).

In general, most agreements feature an article on cooperation measures followed by another article that establishes the rules governing cooperation. For instance, two cooperation agreements concluded by Czechia (CZ–DE (2010), CZ–NL (2008)) are regulated as follows in their Article 5:

Requests and own-initiative communications may be sent in writing, by fax or via email. The processing of an own-initiative request or communication shall not be carried out if it would incur unjustifiable administrative costs or violate national regulations or administrative procedures. If the requesting authority's request cannot be processed, it shall be informed of this, stating the reasons, however IF another body can answer the request the latter should be put in contact with the requesting authority.

This observation confirms the findings from a learning resource paper (Stefanov and Mineva, 2017a) from the EPUW that aimed to shed light on the differences and commonalities of the existing national and cross-border agreements as well as the key challenges and factors of success. This paper demonstrated that bilateral

agreements and memoranda of understanding all demonstrate a **similar structure**, which strives to achieve **the following**:

- facilitating exchange of information and database comparisons;
- setting up communication procedures and steering groups;
- conducting joint risk assessments;
- facilitating temporary exchanges of labour inspectors, as well as providing training secondments;
- conducting joint inspections;
- setting up dispute and complaints resolution mechanisms;
- mitigating any issues with different working languages;
- mitigating any data legislation issues.

4.3.2.1. Information exchange

Almost all cooperation agreements include provisions related to exchange of information or data in the area of labour mobility. In a number of agreements (e.g. CZ–PL (2023), EE–FI (2014), EE–LT–LV (2018), FR–IT (2020), FR–PT (2017), NO–PL (2017), PL–SK (2013)), the use of the IMI is designated explicitly as the (primary) tool for exchanging information in the area of posting. For instance, the agreement between Czechia and Poland mentions that cooperation is carried out through the relevant structures within the State Labour Inspection Office (Czechia) and Chief Labour Inspectorate (Poland) and that the relevant modules of the IMI are to be used to exchange information on cases concerning the posting of workers. The same is true of the agreement between France and Portugal (2017), where Article 2, paragraph 2, states that ‘Cooperation on the exchange of information between labour inspectorates on posting workers shall be carried out through the competent authorities registered in the Internal Market Information System’.

However, it is interesting to note that only a small number of agreements explicitly reference the IMI. Of the 27 agreements concluded following the entry into force of Regulation (EU) No 1024/2012⁽⁸⁷⁾ establishing the IMI, only seven agreements explicitly reference the IMI. In contrast, the majority of agreements facilitate exchange of information through alternative means, for instance through a formulaire (e.g. BE–LU (2008), BE–PT (2007), LU–PL (2010)) or through **email or telephone communication** (e.g. CZ–NL (2008), CZ–PL (2023), DE–FR (2008)). This observation underscores a prevailing pattern in which alternative communication methods continue to be of relevance to the cooperation practices between Member States despite the availability of the IMI.

A major difference is also noticeable in the varying degrees of specificity of the rules on information exchange in the agreements collected. In some agreements (e.g. AT–DE, BE–LU, BE–PL, BE–PT, BG–PT, CZ–DE, CZ–NL, EE–FI), there are detailed provisions on the information request timing and procedure, while other agreements (e.g. BG–FR, BG–PT, DK–LT, DK–LV, DK–PL, DK–RO, DK–SK, ES–FR, NL–PL) are less detailed in their approach.

Some agreements (e.g. BE–LU, BE–RO, BG–PT, DK–LT, ES–FR, FR–IT, FR–LU, NL–PL) contain specific provisions on exchange of information on changes or updates to national legislation applicable in their field. Other agreements also include the obligation to exchange information on their methodologies and working methods during enforcement activities (e.g. NL–PT, NO–PL, PL–PT, PL–SK). Information exchange between competent authorities on OSH-related infringements are also mentioned frequently (e.g. BG–FR (2017), EE–FI, ES–PT (2003), PL–SK).

⁽⁸⁷⁾ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (OJ L 316, 14.11.2012, p. 1).

4.3.2.2. Joint/concerted inspections and other mutual enforcement activities

Many of the agreements collected provide for mutual enforcement activities in the field of labour mobility, with a specific focus on the organisation of joint and/or concerted inspections. Several agreements provide explicitly for the latter (e.g. CZ–NL, CZ–PL, EE–FI, EE–LT–LV, ES–FR, ES–PT (2017), ES–RO, FR–IT, FR–LU, FR–NL, FR–PT, IE–PT, PL–SK). Other agreements focus on the joint planning and implementation of preventive measures (e.g. AT–DE, CZ–DE, CZ–NL, DK–LT, DK–LV, DK–PL, DK–RO, DK–SK, ES–FR). One agreement (CZ–FR) includes a provision to perform joint risk assessment and database comparisons to aid potential investigations. Another agreement (ES–PT (2003)) establishes the obligation on each of the signatories to carry out preliminary checks before the commencement of the posting. Additionally, another agreement provides for the two parties to establish a joint definition of the **applicable legislation** (CZ–FR). Finally, some agreements establish (permanent) communication on the planning, coordination and methodology of planned inspections (e.g. BG–PT, DK–LT).

It is noteworthy that Member States were envisaging the possibility of cooperating in the planning and execution of joint and concerted inspections even prior to the establishment of the ELA.

Yet, of the five agreements adopted after the adoption of Regulation (EU) 2019/1149, only two explicitly refer to the existence of the ELA (FR–IT (2020) and LU–PT (2022)).

4.3.2.3. Capacity building

‘Capacity building’ is defined as the process of developing and strengthening the skills, instincts, abilities, processes and resources to enforce labour mobility legislation consistently and effectively. Most of the agreements collected include a variety of tools to improve capacity. For instance, several agreements provide for the possibility of staff exchanges between the different enforcement authorities (e.g. AT–DE, BG–FR, CZ–DE, ES–PL, FR–IT, LU–PT, PL–PT, PT–RO). Other agreements mention the organisation of meetings (e.g. BE–RO, CZ–PL, EE–FI, EE–LT–LV, ES–PL, ES–PT (2003), ES–RO, FR–PT, IE–PT, PL–SK, PT–RO), seminars (e.g. BE–RO, BG–PT, ES–PL, ES–PT (2017), FR–IT, LU–PT, NL–PT, NO–PL, PL–PT) or conferences (e.g. BG–PT, ES–PT (2017), PT–RO) as a way to improve capacity. The use of joint training is also provided for in several agreements (e.g. BE–LU–NL, BG–PT, ES–PL, ES–PT (2017), FR–IT, FR–PT, IE–PT, PT–RO), as is the organisation of study visits (BE–RO, ES–PT (2017), FR–IT, LU–PT, NL–PT, NO–PL, PL–PT) and visits of specialists (e.g. EE–LT–LV). Other measures included in the agreements collected relate to the development of joint projects in the field of labour mobility (e.g. CZ–NL, ES–PL, LU–PT, NL–PT, NO–PL, PL–PT) and the continuing exchange of good practices between the parties to the agreement (e.g. EE–LT–LV, ES–FR, FR–LU, LU–PT, NL–PT, PL–PT, PL–SK).

4.3.2.4. Awareness-raising activities

Several agreements include provisions on awareness raising to generate and stimulate sensitivity to specific issues related to posting, in particular with regard to posted workers and posting companies (e.g. BG–FR (2008), BG–FR (2017), BG–NL, DK–LV, DK–PL, DK–RO, DK–SK, EE–FI, FR–IT, FR–NL, FR–PT, PL–SK). Some agreements explicitly mention the launch of information campaigns in this connection (e.g. BG–FR, BG–NL, FR–NL, FR–PT, PL–SK). Three agreements of which France is one of the signatories mention efforts to ensure that posted workers are made aware of their rights in their own language (e.g. BG–FR (2008), BG–FR (2017), FR–NL).

4.3.2.5. Review and evaluation mechanism in place

The majority of agreements envisage an evaluation or review mechanism. Nonetheless, 18 of the agreements collected do not seem to have a developed review and evaluation mechanism in place (e.g. BE–LU, BG–NL, CZ–FR, DE–FR, EE–LV, LT–LV, NL–PL, PL–PT, PT–RO). In these agreements, there is usually a closing formula that reads ‘**The parties can meet, when needed, to evaluate the progress of the implementation of the agreement**’. Thus, there is no indication of who is competent to organise such a meeting, or of a periodic deadline by which this meeting could be organised. It seems reasonable to assume (but this is also

confirmed by the results of the semi-structured interviews, as will be seen in Chapter 5) that the absence of a monitoring mechanism can lead to difficulties in the implementation of the agreement.

In comparison, the rest of the agreements provide, in different but always rather precise formulae, a mechanism for evaluating and reviewing the implementation of the agreement. The bodies responsible for this exercise are referred to by a variety of terms, such as 'joint commission' (e.g. AT-DE, BE-FR, CZ-BE, CZ-NL, ES-RO), 'contact points' (e.g. BE-RO, BG-FR), 'steering committee' (e.g. DK-PL, FR-PT) and 'joint monitoring committee' (e.g. ES-PT (2003)). In some agreements where France is a signatory, reference is made directly to liaison bodies (e.g. ES-FR, FR-IT, FR-LU).

5. Empirical analysis of the bilateral and multilateral agreements on EU labour mobility

5.1. Methodology

The collection, classification and desk analysis of the 60 agreements provides some basic insights into the aims, structures and provisions of the agreements. Nonetheless, this textual analysis remains based on desk research and on the examination of legal texts and documents without any assessment of their implementation modalities and effectiveness. In other words, it remains a **law-in-books** exercise as opposed to one that is based on a **law-in-action** approach. Contrary to legal writing in law, treaties, statutes and cases, law-in-action is a legal theory that examines the role of law from the perspective of how it is actually applied and practised in society⁽⁸⁸⁾. The theoretical and textual (legal) interpretation of the agreements that have been collected did not allow the research team to assess the impacts and outcomes of these agreements in practice. These methodological challenges meant that the research team relied on a mixed-methods approach, with desk research complemented by additional targeted fieldwork.

The empirical research is based on two key components:

- (1) a survey of ELA NLOs to obtain complementary information on the agreements that have been gathered and with a view to obtaining additional agreements;
- (2) semi-structured interviews and consultation of relevant stakeholders at the national level, based on a predefined selection of cooperation agreements.

A full description of the methodology of both components can be found in the Annex to this report.

It is sufficient to state here that to further enrich the information obtained from desk research, a survey was sent out to the NLOs. The main goal of the survey was to obtain more insight into the policies, practices, programmes and actions that result from the cooperation agreements concluded by the respective countries. It was also meant to identify the success factors and challenges underpinning the agreements, which are conducive to effective implementation and the achievement of the intended results.

The research team received answers from 15 Member States (BG, DK, DE, IE, LV, LT, LU, HU, MT, NL, RO, SI, SK, FI, SE). In line with the findings of the desk research, three Member States (HU, MT and SI) reported that they had not concluded any cooperation agreements in the field of labour mobility. This may in part be because some of these Member States (e.g. HU, MT) do not have major flows of incoming and/or outgoing posted workers. For instance, the survey reply from Hungary stated that 'as regards posting of workers, Hungary is basically a sending country and not a receiving one'. Another reason mentioned by the Hungarian experts interviewed was that they do not really see any added value in concluding such agreements, as the IMI posting module meets all the requirements they need to address problematic posting cases. Overall, the remaining 12 Member States provided sufficient information for the researchers to complement and compare it with other sources. The results of the analysis are presented in the subsequent subsections.

Second, an initial selection of 10 cooperation agreements was identified for additional applied research by means of **semi-structured interviews**. These agreements were the following: BE–FR (2003), BE–LU (2008),

⁽⁸⁸⁾ See Puaschunder, J. (2022), 'Behavioral international law: Law-in-books vs. law-in-action resembling the neoclassical economics vs. behavioral economics debate', Proceedings of the 28th Research Association for Interdisciplinary Studies Conference, 26–27 June 2022, <https://doi.org/10.5281/zenodo.6945854>.

BE–PL (2007), BE–PT (2009), BE–RO (2013), CZ–PL (2023), EE–FI (2014), EE–LT–LV (2018), ES–FR–IT–PT (2022) and FR–PT (2017).

5.1.1. The selected agreements

Agreements concluded by Belgium (BE–FR⁽⁸⁹⁾, BE–LU⁽⁹⁰⁾, BE–PL⁽⁹¹⁾, BE–PT⁽⁹²⁾, BE–RO⁽⁹³⁾). These five agreements concluded by Belgium were chosen because, first, they were concluded between 2003 and 2013, therefore covering an interesting time range. Second, they were largely similar in structure (scope, cooperation measures, evaluation system) and were negotiated with both sending (FR, PL, PT, RO) and receiving country (FR, LU) counterparts. Thus, it was considered worthwhile to look at this from a holistic perspective, from both sending and receiving viewpoints. Moreover, the possibility of comparing five agreements that had a similar structure and one country in common was considered a good method for detecting any success and/or challenges in the design, implementation and operational activities of these agreements and determining whether or not there were differences among the countries in scope.

Key points from the semi-structured interviews conducted on these agreements

Experts from Belgium interviewed provided interesting views on **the general usefulness of the agreements discussed**. It was emphasised that through targeted agreements, it is possible to achieve more precise goals (e.g. effective inspections). At the same time, it was argued that bilateral or multilateral agreements are not always necessary when there are already well-functioning networks (e.g. Eurodétachement, the SLIC and the ELA) and strong legislation at the EU level. Within that context, it was suggested that additional agreements might place unnecessary strain on the limited economic and human resources available.

FR–PT (2017)⁽⁹⁴⁾. This is an example of a bilateral agreement concluded between the **ministries** of both Member States. The desk analysis showed that this agreement is the basis for a **well-functioning network**, which has resulted in significant and collegial cooperation between authorities. It also includes a wide range of cooperation measures, such as information sessions about national legislation on posting and undeclared work for companies in both Member States; information documents on national legislation for companies, workers, professional organisations and trade unions; methodological support for labour inspectorates and their institutional partners; joint inspections; joint training sessions; and annual meetings to decide on joint operational actions.

⁽⁸⁹⁾ [Administrative cooperation agreement to fight illegal employment](#), 3 May 2003.

⁽⁹⁰⁾ Agreement on the control of social laws and the control of well-being, both of the Federal Public Service – Employment, Work and Social Dialogue and the Social Inspectorate of the Federal Public Service – Social Security in the Kingdom of Belgium and the National Inspectorate of Work and Mines in Luxembourg, 8 July 2008.

⁽⁹¹⁾ [Agreement on the control of social laws and the control of welfare](#), both of the Federal Public Service – Employment, Work and Social Dialogue and the Social Inspectorate of the Federal Public Service – Social Security in the Kingdom of Belgium and the National Labour Inspectorate in the Republic of Poland, 11 October 2007.

⁽⁹²⁾ Agreement on the monitoring of social laws and the monitoring of welfare, both of the Federal Public Service – Employment, Labour and Social Dialogue and the Authority for Working Conditions of Portugal, 7 August 2009.

⁽⁹³⁾ Cooperation agreement in the field of labour and employment, 10 September 2013.

⁽⁹⁴⁾ Agreement on administrative cooperation in relation to posting of workers and the prevention of undeclared work, 17 November 2017.

Key points from the semi-structured interviews conducted on this agreement

Both the representatives interviewed on the French side and the one interviewed on the Portuguese side emphasised how the cooperation between the two countries on the basis of this agreement had developed very positively, and, as further evidence, some of the important aspects of this cooperation were about to be replicated with other countries (i.e. BE–PT), namely the presence of local proximity agents and of a standing steering committee.

CZ–PL (2023) ⁽⁹⁵⁾. This is a memorandum of understanding between two neighbouring countries. It is an agreement concluded by the **inspectors** of both countries. Poland is a major **net sending** country in terms of postings generally and to Czechia specifically ⁽⁹⁶⁾. Interestingly, this is one of the few agreements established recently (6 June 2023). This allowed the research team to take into account changes that might have occurred in the practices of Member States since the adoption of Directive (EU) 2018/957 and the establishment of the ELA. Our desk analysis revealed that the agreement covers a broad range of cooperation measures, such as exchange of information, joint inspections and sharing of knowledge (e.g. prevention activities, national laws, bilateral meetings, joint projects).

Key points from the semi-structured interviews conducted on this agreement

Interviews with the Polish inspectorate and the Czech inspectorate were extremely helpful in shedding light on the challenges related to the mutual understanding of each other's needs during the negotiation of their cooperation agreement. For example, it was noted that naming the agreement a 'memorandum' rather than an 'agreement' was important to avoid the latter being considered legally binding. Additionally, discussions were held on the scope of cooperation measures included in the initial proposal.

EE–FI (2014) ⁽⁹⁷⁾. This bilateral agreement was concluded by the **regional authorities** of South Finland and the Estonian labour inspectorate. It provides a different perspective from other agreements as it is a regional agreement, mainly tailored to Estonian posted workers going to South Finland. Finland employs large numbers of Estonian posted workers, and the majority of posted Estonian workers are posted to Finland. Estonia has only begun to receive posted workers in recent years, having tended in the past to be a sending country only.

Desk research showed that the agreement covers a **wide range of cooperation measures**, including a well-developed process for exchange of information, biannual meetings, exchanges of inspectors and awareness-raising efforts. As a result of the cooperation, Estonian inspectors have received a significant amount of training in inspection activities, particularly in relation to posted workers. Awareness of Finnish internal regulations has increased among Estonian authorities, with Finnish inspectors being involved in information sessions in Estonia about temporary work agencies.

For this agreement, only the Estonian inspectorate was interviewed, while the Finnish perspective was gleaned from the Finnish respondent's answers to the survey questions.

⁽⁹⁵⁾ Memorandum focusing on cooperation and exchange of information in matters relating to work carried out in the territory of the two countries, 6 June 2023.

⁽⁹⁶⁾ de Wispelaere, F., de Smedt, L. and Pacolet, J. (2022), *Posted Workers in the European Union – Facts and figures*, Posting.STAT, Leuven.

⁽⁹⁷⁾ [Agreement to ensure effective protection of employment and safe and healthy conditions of workers posted to work in the territories of the contracting parties](#), 3 December 2014.

Key points from the semi-structured interview conducted on this agreement

The interview conducted with the representative from the Estonian labour inspectorate was relevant overall to better understanding the extent to which the **personal relations between the parties negotiating and implementing the agreement can matter**. Indeed, once it was understood that trust in the other party and established acquaintance before concluding the agreement are very important elements to consider, these factors were also identified during the other interviews. Another key point arising from the interview was the **importance of the international networks** (the Nordic Baltic Hub ⁽⁹⁸⁾, Eurodétachement ⁽⁹⁹⁾ and the ELA).

EE–LT–LV (2018) ⁽¹⁰⁰⁾. This **multilateral agreement** was signed by the **state labour inspectorates** of Estonia, Latvia and Lithuania as a forum for trilateral cooperation and exchange of information in the field of OSH and posted workers. The preliminary analysis of the agreement revealed a broad range of cooperation measures, including annual meetings, staff exchanges, information exchange, joint inspections and capacity-building initiatives. Of the agreements received, this constitutes the only multilateral agreement that has established a cooperation mechanism specifically in the field of posting and seasonal work.

For this agreement, only the Estonian inspectorate was interviewed; however, the insights provided were significantly helpful to understand the impact this multilateral agreement had.

Key points from the semi-structured interview conducted on this agreement

The interview conducted with the representative from the Estonian labour inspectorate was relevant to better understanding how the multilateral cooperation between the three countries developed. At the beginning, the language of the agreement was Russian; later on it became English, and **this allowed the research team to consider that a common language between the countries can be an important facilitating factor**, for the negotiation phase but also for implementation.

ES–FR–IT–PT (2022). This multilateral cooperation was mentioned by the NLO from France during the first Expert Working Group meeting. Despite it not being clear initially whether this cooperation had already been formalised, it was immediately clear that this multilateral cooperation, recently conceived under the auspices of the ELA by the respective NLOs (2022), could be of great interest.

The NLOs from France and Portugal were interviewed and provided the research team with relevant information, in particular clarifying the nature of the cooperation and its scope, since there is no available text of the agreement itself.

⁽⁹⁸⁾ This hub is a network that exists not by virtue of a formal agreement but simply as a result of a shared understanding between Denmark, Finland, Iceland, Norway and Sweden (the Nordic countries) and Estonia, Latvia and Lithuania (the Baltic countries). It is the successor of the Nordic undeclared work project, funded by the European Commission.

⁽⁹⁹⁾ The Eurodétachement project (launched by the European Commission in 2010) is a project on transnational cooperation in the field of the posting of workers. Meetings are organised periodically.

⁽¹⁰⁰⁾ [Agreement on trilateral cooperation and exchange of information in the field of occupational safety and health and posted workers](#), 8 May 2018.

Key points from the semi-structured interviews conducted on this multilateral cooperation

The interviews on this arrangement allowed the research team to confirm the added value of multilateral compared with bilateral arrangements. **The former take into account a labour market that faces similar problems and can put in place comparable solutions.** This means that the countries that are part of them can count on obtaining more insights and more ideas, as well as the not insignificant **support of an organisation such as the ELA**, which facilitates cooperation in no small measure. The great added value of this multilateral cooperation emphasised by the interviewees was the fact that **the four countries currently involved in the cooperation are also able to pursue bilateral objectives**, even though established in the broader multilateral framework.

5.2. Findings

5.2.1. Introduction

This section addresses several key objectives. The first subsection ([Section 5.2.2](#)) seeks to identify the principal factors that facilitated the conclusion and/or negotiation of cooperation agreements as reported by respondents in both the survey and interviews, alongside an examination of the challenges that hindered their conclusion. The next subsection ([Section 5.2.3](#)) predominantly draws upon insights gathered from the semi-structured interviews to discuss the factors influencing the effective implementation of the agreements, supplemented by relevant findings from the survey data. Finally, the concluding subsection ([Section 5.2.4](#)) provides an overview of respondents' perspectives on the complementarity (or lack thereof) of the cooperation agreements within the broader EU legal framework and the ELA.

5.2.2. Negotiation phase

The semi-structured interviews revealed that while some agreements initiate and/or formalise existing cooperation, others extend it. For instance, the Estonian representative mentioned that the cooperation agreement between **Estonia and Finland** was an **attempt to initiate and formalise** cooperation. On the other hand, the trilateral cooperation agreement between Estonia, Latvia and Lithuania extended existing cooperation between the three countries.

This was also the case for the **memorandum between Czechia and Poland**, which, according to the interviewees, **updated and extended previous cooperation** that had already been functioning quite well. The previous agreement had been established in 2005, but its importance had decreased as it was no longer up to date, given that it did not provide for the possibility of cooperating on cases involving accidents at work and breaches of health and safety measures, and it did not clearly designate competent authorities for the implementation of the agreement.

The respondent from **Belgium** mentioned that most of Belgium's cooperation agreements were aimed at extending existing cooperation practices, while the objectives of the bilateral agreements with **Poland and Romania were to formalise** and initiate cooperation. The Polish representative concurred with this statement, noting that a stable cooperation mechanism between Belgium and Poland was needed in order to establish an effective and efficient way of exchanging information.

Another example is the agreement between **Belgium and France**. A French stakeholder interviewed mentioned that before the signing of the cooperation agreement with Belgium, the cooperation was on an informal basis and much less developed in terms of cooperation measures. Conversely, even before a cooperation agreement was negotiated between **France and Portugal**, cooperation practices existed within

the framework of Eurodétachement programmes between these two countries. This was also confirmed by the Portuguese respondent.

5.2.2.1. Facilitating factors

Section N. III of the questionnaires, forwarded as surveys and as preparation for the semi-structured interviews, included seven facilitating factors that have led to the conclusion of cooperation agreements between countries. While these seven factors were included on the basis of the literature review (see Chapter 3), two additional factors (i.e. political motivation and the existence of the ELA) emerged during the study. Table 8 provides a global overview of the facilitating factors detected.

Table 8. Facilitating factors for concluding cooperation agreements

Facilitating factors	Cooperation agreements
Previous interinstitutional cooperation	BE–FR, BE–LU–NL, BE–PT, BG–DE, BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, CZ–PL, DK–FI–IS–NO–SE, DK–LT, DK–SK, EE–FI, EE–LT–LV, EE–LV, FR–PT, LT–LV, PL–SK
Professional networks/ contacts	BE–FR, BE–LU, BE–PT, BG–DE, BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, CZ–PL, CZ–SK, DK–FI–IS–NO–SE, DK–LT, EE–FI, EE–LT–LV, EE–LV, FR–PT, IE–PT, PL–SK
Neighbouring countries / geographical proximity	BE–FR, BE–LU, BE–LU–NL, BE–NL, DE–NL, DK–FI–IS–NO–SE, DK–LT, DK–PL, EE–FI, EE–LT–LV, EE–LV, FR–PT, LT–LV
Flow of incoming and/or outgoing posted workers between countries	BE–FR, BE–LU, BE–PL, BE–PT, BE–RO, BG–DE, BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, CZ–PL, DK–FI–IS–NO–SE, DK–LT, DK–PL (2015), EE–FI, EE–LT–LV, EE–LV, FR–PT, IE–PT, LT–LV, PL–SK
Similar national regulations / working practices	BE–LU, BG–DE, BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, EE–FI, EE–LT–LV
Similar institutional ICT systems	BG–FR (2017), BG–PT, DK–FI–IS–NO–SE, EE–LT–LV
Similar working language	BE–FR, BE–PT, EE–FI, EE–LT–LV, FR–PT
Political prioritisation	DK–LT, DK–LV, DK–PL, DK–RO, DK–SK, EE–FI, EE–LT–LV, FR–PT, IE–PT
Transnational networks / establishment of the ELA	CZ–PL, ES–FR–IT–PT

NB: ICT = information and communication technology.

The research team uses the phrase ‘**previous interinstitutional cooperation**’ to refer to all those cases in which the negotiation process was made smooth by previous institutional collaboration between the Member States involved. The importance of previous interinstitutional cooperation was confirmed by the survey replies, which stated this as a reason for some of the agreements that had been concluded (e.g. BG–DE, BG–FR (2008), BG–NL, BG–PT, EE–LV, LT–LV).

In the semi-structured interviews, the **Czech representative** emphasised that Czechia has had successful information sharing and joint inspections with its Polish counterparts for years and that this helped to facilitate the signing of the new memorandum. In the same vein, the **Portuguese representative** noted that a major facilitating factor in negotiating an agreement with France was the previously successful (albeit informal) cooperation practices of the past; every year, between 2015 and 2018, the French National Institute of Labor, Employment and Vocational Training sent young labour inspectors to Portugal for a week of training, where they were trained in both theory (learning the routines of a Portuguese inspection) and practice (joining Portuguese inspectors in action).

Professional networks / professional contacts are also relevant because they lead to direct communication channels between stakeholders, which may ease and facilitate mutual understanding during the negotiation process. The results from the semi-structured interviews indicate that professional networks between staff (managers) working in different Member States constitute a major facilitating factor for entering into cooperation agreements. For instance, the Estonian representative stressed that the people effectively promoting the

collaboration from the two countries knew each other and had already established a relationship based on trust, which is seen as an essential factor for (future) cooperation. This was confirmed by the survey replies in which several respondents pointed out that professional contacts were an important factor in concluding particular agreements (e.g. BG–DE, BG–PT, CZ–SK, LT–LV).

Some semi-structured interviews pointed to the importance of transnational organisations in establishing professional contacts and trust between Member States' institutions. For example, the Czech representative noted that Czechia's inspectorates had already participated in SLIC seminars and working groups or ELA events, and this had made negotiations with Polish colleagues easier. The Portuguese representative also mentioned that negotiations with both France and Belgium were very smooth precisely because, since the inception of the Eurodétachement project, inspectors from the different Member States had already had the opportunity to get to know each other and establish professional relationships. One of the Belgian representatives also stated that the success of Belgium's cooperation with Luxembourg was largely due to the professional contacts established between inspectors during Eurodétachement meetings.

Geographical proximity or shared borders may promote cooperation between countries due to common history, interests, challenges or opportunities. For several agreements, the survey replies indicated that geographical proximity was one of the main reasons for concluding these agreements (e.g. BE–NL, DE–NL, DK–LT, EE–LT–LV).

This was also confirmed during the semi-structured interview with the Estonian representative, who noted explicitly that geographical proximity had definitely been a factor encouraging the conclusion of the bilateral agreement with Finland. This was also the case for the trilateral cooperation agreement with Latvia and Lithuania.

A **significant incoming and/or outgoing flow of posted workers between countries** suggests an existing interlinkage between the countries' labour markets, which may lead to the decision to address shared challenges in cooperation agreements. From the survey replies, it seems that this constituted a major factor in concluding many of these agreements (e.g. BG–DE, BG–FR (2017), BG–PT, DK–FI–IS–NO–SE, DK–LV, DK–PL (2015), EE–LT–LV, EE–LV).

The semi-structured interviews also provided numerous examples of this. For instance, the Czech representative mentioned that a large number of posted workers come from Poland and Slovakia, which constitutes a major motivating factor for intensifying cooperation. Another example provided was the bilateral agreement between Estonia and Finland, where the Estonian representative noted that at the time of signing the agreement more than 80 % of Estonian posted workers were being posted to the Finnish region of Helsinki (i.e. the region that signed the bilateral agreement). Both the Belgian and Polish representatives noted that the fact that many Polish workers were being posted to Belgium was an essential factor in negotiating the cooperation agreement with Belgium. Conversely, the Belgian representative indicated that the agreement with Luxembourg mainly started because of the large number of workers posted from Belgium to Luxembourg. Albeit there is no cooperation agreement (yet), the Czech representative also mentioned that it would make sense to formalise cooperation with Austria, which is for them a major requesting country (in terms of information requests, including through the IMI).

Similarities in national regulations or working practices can facilitate the process of reaching agreements by minimising the need for extensive negotiations and avoiding misunderstandings. This was the case for a number of agreements according to the respondents to the survey (e.g. BG–FR (2008), BG–FR (2017), BG–NL, BG–PT). During the semi-structured interview with an Estonian representative, it was noted that one of the main reasons for entering into an agreement with Finland was the fact that Finland acted at the time as a model country in terms of the capacity and skills of the labour inspectorate (e.g. English language, working methods, joint inspections).

Compatibility in institutional information and communication technology systems can enhance communication and information-sharing capabilities, and thereby also ease the process of negotiating cooperation agreements. However, only a minority of countries studied indicated that this was a facilitating factor for entering into agreements with other countries (BG–FR (2017), BG–PT, DK–FI–IS–NO–SE, EE–LT–LV).

A common working language, according to several stakeholders interviewed, is also considered a major facilitating factor for entering into agreements. For instance, with regard to the cooperation agreement between France and Portugal, French is widely spoken by inspectors and senior staff, particularly in the northern part of Portugal. This is also relevant for exchanges between the Belgian Walloon Region and the northern region of Portugal. Another example is the agreement between Estonia and Finland, where it was mentioned that Estonian and Finnish inspectors were able to understand each other due to geographical proximity and the ability of some inspectors to understand the other language. The same is true of the agreement between Estonia, Latvia and Lithuania, which share a common knowledge of the Russian language.

Political prioritisation was a major factor in concluding several of the Danish agreements according to the Danish respondent to the survey (i.e. DK–LT, DK–LV, DK–PL, DK–RO, DK–SK). The respondent from Lithuania confirmed in their reply that political commitment in Denmark and Lithuania played a major role in concluding this agreement.

The establishment of the ELA was mentioned during the semi-structured interview with the Czech representative as another facilitating factor. It was stated that the establishment of the ELA in 2019 acted as one of the main drivers behind the agreement with Poland (e.g. the support provided by the ELA during concerted and joint inspections). The mere fact that the ELA existed was in the background during the negotiation of the ambitious scope of cooperation measures listed in the agreement.

The existence of the ELA was also easily noticeable as a factor in the cooperation arrangement between Spain, France, Italy and Portugal, where the idea largely stems from the work of the four NLOs of the countries involved. Nevertheless, the fact that these countries share similar labour markets and challenges was also an important factor in establishing an informal cooperation arrangement. The latter argument also surfaced during the interview with the Estonian representative on the multilateral agreement signed by the state labour inspectorates of Estonia, Latvia and Lithuania.

5.2.2.2. Challenging factors

The findings from the semi-structured interviews and the surveys did not reveal many challenges that Member States encounter when negotiating cooperation agreements. The Portuguese interviewee noted that this can partly be explained by the fact that the negotiation of cooperation agreements usually takes place with those countries with which there is already a significant cooperative relationship. In other words, the agreement is often a way to consolidate the existing cooperation and make it more effective and/or put it on a more regular footing. **Nonetheless, three major challenges were identified by the stakeholders interviewed:** (1) the scope of the cooperation measures envisaged; (2) differences in institutional set-up; and (3) the lack of human resources.

The scope of the cooperation measures envisaged. This was pointed out by the Czech representative, who mentioned that, from the Czech perspective, the cooperation agreement with Poland (2023) was initially too ambitious in scope (in terms of the cooperation measures proposed). The matter was resolved in the end by limiting the cooperation in the memorandum (while staying very ambitious).

Differences in institutional set-up. The key challenge identified during the semi-structured interviews relates to the fact that each country differs slightly depending on the legal framework and the institutions responsible for different aspects of labour mobility. This results in situations where the mandates of the public authorities of different Member States do not coincide in terms of competence in transnational issues, and neither do those of the various public authorities in the individual Member States. This also creates issues when negotiating cooperation agreements. The identification of this challenge largely corroborates the findings from the literature review.

For instance, the **Estonian representative** emphasised that the current negotiation of a possible new cooperation agreement with Poland to expand the existing cooperation is taking time in part because the state organisation of Poland is more complex than that of Estonia, and reaching agreement requires approval by several hierarchical levels of authority in Poland.

The **same sentiment was echoed in relation to negotiations between Belgium and Poland (2007)**. The Polish representative emphasised that several meetings had been necessary to learn about each other's structure and working methods. The fact that Belgium had three signatory parties because of its federal structure while Poland only had one is another illustration of such differences. The Polish representative indicated that clarity on which of the authorities of Belgium were competent in this field had been necessary before concluding this agreement. Belgium confirmed that negotiations might be challenging for its counterparts, as competence in the field of labour mobility is spread across several competent authorities.

The **French interviewee also confirmed** that the drafting of cooperation agreements takes considerable time because in each Member State several services are involved – for France, namely the Ministry of Labour and the Ministry of Foreign Affairs.

Another example of how different institutional set-ups can be an obstacle is the memorandum of cooperation signed by **Czechia and Poland (2023)**. As already mentioned, while negotiating this text, one of the major obstacles was the fact that the Czech State Labour Inspection Office was not competent to sign bilateral agreements, as this is the responsibility of the relevant ministries. If Czechia's Polish counterparts had wanted to conclude an 'agreement', negotiations would have had to start with the relevant Czech ministry and a similarly weighted counterpart on the Polish side (i.e. a ministry). However, in Poland, the governmental set-up is not structured this way, as there is no direct relation between the labour ministry and the State Labour Inspection (e.g. the chief inspector is nominated directly by the Polish parliament). In the end, Poland agreed to sign a memorandum only (not an agreement), which does not create legally binding obligations.

Interestingly, the Polish interviewee also indicated that Poland would be interested in concluding a cooperation agreement in the area of labour mobility with Germany. However, at this stage meetings had not led to positive outcomes because of the difficulties Germany had in indicating the competent authority that could actually conclude and then implement this type of agreement.

Lack of human and financial resources. Interviewees from Belgium pointed to the lack of human and financial resources that may hinder the possibility for a Member State to engage in cooperation agreements that are not deemed essential. In the opinion of the interviewee, unnecessary bilateral or multilateral agreements might place considerable strain on the limited economic and human resources available, in a context where there are already well-functioning networks (e.g. Eurodétachement, the SLIC and the ELA).

5.2.3. Implementation phase

In relation to the implementation phase of the agreements, the textual analysis (Chapter 4) made it possible (see [Figure 1](#)) to identify which cooperation measures were mentioned in the agreements most frequently. At the same time, as previously illustrated, the combination of the two types of empirical observation led to the investigation of different elements of the cooperation agreements. The analysis of survey responses made it possible to observe which cooperation measures were implemented in practice, and this is described below in [Section 5.2.3.1](#), while the semi-structured interviews made it possible to identify the determinants of the actual implementation of the agreements ([Section 5.2.3.2](#)). Finally, the combined analysis of the results obtained from the surveys and the semi-structured interviews also made it possible to classify the factors that hinder the implementation of the agreements ([Section 5.2.3.3](#)).

5.2.3.1. Cooperation measures implemented

The analysis of survey responses made it possible to observe which cooperation measures were implemented in practice.

Exchange of information or data in the area of labour mobility. The survey results confirmed that exchange of information or data is the main cooperation measure between Member States. This is consistent with the fact that most of the agreements considered (57 out of 60) have exchange of information between competent authorities as their main aim.

The reply from the Danish respondent mentioned that Nordic cooperation ⁽¹⁰¹⁾ occurs in several forums. This collaboration aims, among other things, to facilitate the exchange of knowledge about and experiences of conditions that can potentially reduce mobility between the countries and possible solutions to the problems identified. There are regular meetings in which all countries participate and there is an active database that stores all information.

The reply from the German respondent indicated that cross-border cooperation with other competent authorities is established in the form of bilateral dialogues, regular updates on key statutory changes affecting efforts to combat undeclared work, and cooperation in administrative procedures.

The reply from the Irish respondent mentioned that meetings with Portugal are organised with ELA's support.

Joint enforcement actions. Although joint activities can be costly and require the use of numerous resources, several respondents to the survey mentioned examples of cross-border enforcement activities happening as part of an agreement.

The German respondent cited as an example a concerted inspection under Article 5(2)(2) of the German–Austrian treaty ⁽¹⁰²⁾, which was a measure taken during the action week that was part of the EPUW's awareness-raising campaign #EU4FairWork.

Similarly, the reply from Latvia indicated that several joint inspections had been organised with Latvian and Lithuanian inspectors in both Latvia and Lithuania to supervise posted workers. Furthermore, the reply from Lithuania mentioned that in the framework of the trilateral cooperation agreement with Estonia and Latvia, the State Labour Inspectorate of the Republic of Lithuania closely cooperates with the Latvian State Labour Inspectorate in the form of joint inspections that are carried out annually.

The reply from Bulgaria pointed out the organisation of joint inspections with France, including some organised with the support of the ELA.

Capacity-building initiatives or exchange of good practices. Among respondents to the surveys, but above all in the semi-structured interviews, the initiatives taken in the area of the education and training of staff and those directly concerned, such as employees or employers, are considered very relevant. As indicated above, in the past, junior French inspectors travelled to Portugal to learn how to work together and become familiar with the basic Portuguese labour law rules (before the establishment of the agreement). Additional examples are provided in the section below (Section 5.2.3.2).

The reply from Latvia mentioned that in its trilateral cooperation with Estonia and Lithuania, annual meetings are organised to exchange information and best practices on the supervision of posted workers (including inspection methods and evidence gathering). Additionally, expert visits are organised to exchange experiences on current issues within the European Social Fund project ⁽¹⁰³⁾. The reply from Lithuania also indicated that this trilateral cooperation features the organisation of visits by specialists to the countries.

Information and awareness-raising campaigns. The survey results also showed that awareness-raising campaigns do exist and are implemented effectively among countries (although not universally since only 15 agreements mention them).

The replies from Bulgaria and France indicated that both Member States have developed a plan for multilateral cooperation in relation to occupational accidents, which has three dimensions: (1) guidance for the control authorities; (2) exchange of information in relation to work-related accidents; and (3) the development of a flyer on the rights and obligations of posted workers and their employers in the event of occupational accidents.

⁽¹⁰¹⁾ The agreement concerning a common Nordic labour market establishes a framework for cooperation among Nordic countries to enable the free movement of workers, ensuring non-discrimination and equal employment rights for citizens across these countries. It aims to promote labour mobility and harmonise labour market policies within the Nordic region.

⁽¹⁰²⁾ Treaty between the Republic of Austria and the Federal Republic of Germany on cooperation in combating cross-border undeclared work and illegal cross-border temporary employment (<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008419>).

⁽¹⁰³⁾ <https://european-social-fund-plus.ec.europa.eu/en/support-your-country/esf-latvia>.

Similarly, the replies from Bulgaria and the Netherlands mentioned an information brochure on lawful employment developed in the Netherlands, which is featured on the website of the Bulgarian General Labour Inspectorate Executive Agency.

In addition, the replies from Bulgaria and Germany made clear that both Member States have undertaken joint actions to facilitate mobile workers' access to relevant information materials about their rights in Germany. Mutual assistance is provided in the interpretation and development of further information materials and potential dissemination channels.

5.2.3.2. Facilitating factors

The semi-structured interviews identified **four factors** that have been of key importance in the practical implementation of 6 of the 10 selected agreements, namely BE–FR (2003), BE–PT (2009), EE–FI (2014), ES–FR–IT–PT (2022), EE–LT–LV (2018) and FR–PT (2017).

The absence of one or more of these factors (alongside the other challenging factors that have emerged in the course of the cooperation (discussed below)) severely complicates the implementation of three of the remaining agreements among those selected: BE–LU (2008), BE–PL (2007) and BE–RO (2013).

As the CZ–PL (2023) agreement has not yet been implemented, it is too early to analyse the facilitating factors.

Below, these four determining criteria for the implementation of the six agreements are analysed, including examples of good practices resulting from these cooperation actions.

Factor 1. A relationship of mutual trust between the enforcement authorities working on the implementation of the agreements

From the semi-structured interviews with respondents to study the BE–FR (2003), BE–PT (2009), EE–FI (2014) and FR–PT (2017) agreements, one aspect emerged consistently, namely that the implementation of these agreements requires a relationship of mutual trust between the people working on their implementation, regardless of how well they were written or devised and whether they are more or less detailed or more or less up to date.

BE–FR (2003). Although the agreement between Belgium and France is rather old, it is still vibrant and the basis of much of the activity that takes place between the two Member States. At the time of its conclusion, the agreement was aimed at combating cross-border fraud that could be carried out by taking advantage of control loopholes, adversely affecting the rights of workers who enjoyed freedom of movement. This agreement includes only a very few activities to achieve its objective.

The only real cooperation measure mentioned in the agreement **relates to exchange of information**. Nevertheless, **precisely because of the lively cooperation and mutual trust between these two Member States**, the agreement has de facto expanded considerably over time, serving as a legal basis for the implementation of numerous other activities beyond the simple exchange of data and information. For instance, it was argued by one of the interviewees from the Belgian inspectorate that the mere fact that there is an agreement enables inspectors to find the willingness to meet with the other contracting party and discuss activities that can be carried out together, even if they were not expressly provided for in the agreement at the time it was made (e.g. joint inspections). In the absence of the agreement that provides a legal basis justifying cooperation, it would probably be more difficult to organise these initiatives. **Some activities carried out as part of this collaboration thanks to the relationship of mutual trust in the agreement are:**

- **exchange of information** – Belgium and France do not regularly use the IMI to exchange information, but rather SIPSI (the French database) or another *formulaire* that they send via email;
- **joint inspections between the two countries;**

- **staff exchanges.**

These activities, which go far beyond the simple exchange of information, have been – according to the interviewees – made possible especially by the excellent relationship of trust between the Belgian and French inspectorates. In addition, the implementation of these activities has made it possible to achieve the objective of the agreement more effectively: to combat fraud, especially in the payment of wages in Belgium or France to posted workers.

BE–PT (2009). The agreement between Belgium and Portugal dates back to 2009. This agreement does not per se include a detailed text and a specific action plan. Nevertheless, at the time it was concluded, it was quite innovative, mainly in two respects: first, it provided for exchange of information using a form that had been designed specifically for the purpose; second, it stipulated a precise time frame (four weeks) for exchange of information.

Notwithstanding the establishment of the IMI and other digital developments, the agreement has remained active and serves as a legal basis for the continued expansion of cooperation activities between the two countries. The representatives interviewed noted that this was especially due to the fact that the signing authorities (for Belgium the Federal Public Service – Employment, Labour and Social Dialogue, and for Portugal the ACT) **had a long history of cooperation behind them, and a relationship of mutual trust.**

The agreement provides for exchange of information on posted workers. The fact that there is a very good relationship has made it possible to continue to exchange information in a direct way, through calls, emails and video calls. The result is very-high-quality, timely and fast collaboration between the two states. **Specific activities carried out within this collaboration in recent years, although not directly provided for in the agreement, are as follows.**

- **Joint inspections.**

- Joint inspection visits have been carried out at the site of the construction of a new hospital in Liège.
- Inspection visits were made to the headquarters of a company in northern Portugal in 2016 and 2017 by a team of Belgian and Portuguese inspectors.

- **Staff exchanges.**

- Staff exchanges took place as part of the EPUW in Lisbon in July 2018 (between the ACT and the Social Security Institute).

None of these types of activities is envisaged within the agreement, which merely provides for exchange of information. However, as in the abovementioned case, the excellent cooperation between the two contracting parties, the Belgian inspectorate and the Portuguese labour inspection authority, made the positive development of the cooperation possible.

EE–FI (2014). The agreement between Estonia and Finland dates back to 2014. This agreement features a very detailed form of cooperation and provides for different types of activities (Articles 1–4 of the agreement), including exchange of information, biannual meetings, exchanges of personnel, joint inspections and awareness raising.

The Estonian inspectorate stated that **effective implementation rested almost exclusively on the relationship of mutual trust between the parties involved.** It was reiterated during an interview that, in the absence of mutual trust and willingness to cooperate, the cooperation would come to a standstill.

This is illustrated by the difficulties sometimes encountered by the authorities of the two countries in finding funds and resources for joint inspections (which are expensive, and which the two states were not always able to undertake). The interviewee made it clear that, although difficulties of this kind may hold back some activities, other activities, based on the close relationship of respect and cooperation, never stop. Some examples are provided below.

- **Exchange of information.**
 - The exchange of opinions, suspicions and uncertainties at an informal level, by phone or email or via Microsoft Teams, precedes any kind of formal initiative when there is a case involving a company or a posted worker, in order to correctly assess how much priority to give to the specific case and how to act on a practical level.
- **Raising awareness.**
 - Awareness-raising activities are organised in both territories. These activities are carried out by individual inspectors who travel to the territory of the other Member State to participate in seminars and conferences, some open to the public, where they provide clarification on the legislation of the state they come from (either Estonia or Finland) on posted workers and their rights and obligations.
- **Staff exchanges.**
 - Several initiatives of this type have been carried out under the agreement. In particular, initially, Estonian inspectors wanted to learn from the Finnish inspectors, who had more experience in this sector.
 - Nowadays, new Estonian inspectors can be trained by other experienced Estonian inspectors. Therefore, the need to organise staff exchanges under this specific agreement has somewhat diminished.

FR–PT (2017). As already stated, this agreement gave formal status to a collaborative relationship that had been cultivated and promoted for many years. The aim of the agreement was to strengthen existing bilateral cooperation by seeking to ensure effective protection for posted workers in the areas of health and safety, hygiene, compliance with employment standards, the combating of illegal employment and the prevention of accidents in the workplace. The agreement is very detailed and envisages in its Article 1 several activities to achieve its objectives, including exchange of information, meetings, joint training sessions for staff, joint inspections and the dissemination of awareness-raising materials for employers and workers and their respective organisations and trade associations.

However, in this case the implementation of the agreement has certainly been influenced by a well-established relationship dating to before the signing of the agreement, as demonstrated by the activity carried out between the two countries between 2015 and 2018.

As discussed previously, between 2015 and 2018, France, specifically the National Institute of Labour, Employment and Vocational Training, used to send 10 to 11 young inspectors to train in Portugal for a week each year in order to understand how an inspection was carried out in Portugal and to learn about the country's standards and rules. This activity was very successful and certainly greatly influenced the training of new generations of inspectors, making them aware of the need to cooperate with other countries.

Finally, in the case of the multilateral cooperation arrangements, the relationship of trust between some of the enforcement authorities bilaterally (e.g. EE–LT, EE–LV, ES–FR, FR–PT) certainly had an influence on the conclusion and possibly the implementation of some of the activities, though this was not the determining factor according to the few representatives interviewed during the semi-structured interviews.

Factor 2. The establishment of a joint commission

The second factor that interviewees considered essential for the implementation of the agreements is the provision within them, or as an immediate consequence of them, for **a monitoring and evaluation body composed of members of the institutions of both parties** (inspection directorates, welfare institutions, etc.). The presence of this body allows the parties to meet more consistently and to ensure that cooperation proceeds smoothly, even during periods when the implementation of the agreement is not the priority for the individual Member State.

Almost all agreements considered provide for monitoring clauses in the text (e.g. BE–LU (Article 5), BE–PL (Article 5), BE–RO (Article 6), CZ–PL (paragraph 4), EE–LT–LV (Article 2), with specific activities requested and the appointment of competent authorities.

BE–PT (2009) and EE–FI (2014) do not provide for the establishment of a control body, but instead envisage the possibility for the ‘parties to meet when deemed necessary’ (i.e. at least once a year for the first agreement (BE–PT, Article 5), and once every two years for the second agreement (EE–FI, Article 2)). However, for these two agreements, the absence of a body to control and monitor the agreement was not mentioned as a problem only because there were predetermined, existing opportunities to meet. For example, there were frequent exchanges between Belgium and Portugal due to the relationship of mutual trust and a common working language (French, in northern Portugal and the Walloon Region of Belgium), but above all due to the meetings organised under the auspices of the Eurodétachement project. Similarly, Estonia said that most of the evaluations of the progress of cooperation with Finland were carried out not in a biannual meeting with Finland alone, but rather during the meetings that took place once every two months through the Nordic Baltic Hub.

Moreover, **those agreements that provide for a joint commission or the designation of relevant contact points achieve consistent and effective cooperation** despite changes in political priorities or financial difficulties over time. Among the agreements considered, two seem to be the most promising in terms of the control mechanism established.

BE–FR (2003). This agreement provides in its Article 5 for the establishment of a joint commission, with a secretariat based in Brussels. This joint commission meets annually and gives guidelines to the cross-border working groups (which meet quarterly). The interviewees from both countries pointed out that these meetings are the beating heart of activity planning and are essential for effective cooperation, as they deepen the relationship of mutual trust and allow for immediate exchanges, even on more complex cases.

FR–PT (2017). Although this agreement itself contains a rather general monitoring clause in Article 3, the parties also set up contact points (six to seven agents per state) and a steering committee to evaluate the agreement. This mechanism, established immediately after the conclusion of the agreement, proved to be very effective for the subsequent implementation of the cooperation activities. French and Portuguese inspectors meet regularly to monitor the progress of cooperation and designate priorities. The meetings take place in two different contexts.

- (1) The steering committee is a joint body composed of the parties to the agreement. The body meets once a year in person. Various other institutions that may be interested in participating, such as the social security institutions of the two countries, are also invited to this meeting.
- (2) The second fixed meeting is organised between the French and Portuguese local proximity agents. They, having received guidelines from the steering committee, discuss how, on a practical level, they can achieve their objectives.

Thanks to these fixed appointments, the two countries have set up a very efficient system of information exchange and cooperation, which aims to achieve effective, practical results.

Highlights from the interviews on FR–PT (2017) regarding the collaboration process

Highlight 1. The following activities take place at the annual meeting of the **steering committee**:

- a summary of the main legislative innovations on illegal employment and posting rules in each country;
- an assessment of how the local proximity agents are working, on both complex and simple cases (see below);
- a discussion on how to overcome stalemates that may exist in some investigations;
- an evaluation of the collaboration and a discussion of ways to improve cooperation;
- the clarification of uncertainties that may arise in the reading of certain data (a specific example was given of a meeting during which Portuguese inspectors explained how the Portuguese payroll was formed, so that this could then be reported by their French counterparts to their colleagues).

Highlight 2. Proximity agents are employees of the French Directorate-General for Labour and the Portuguese ACT. Their objective is to work on cases that the two states send each other that are particularly complex.

In Portugal, there are two local proximity agents with access at the national level to the IMI. The other five proximity agents do not have access to the IMI and their function is mainly to work on cases that France report as complex. (The same process works the other way around in response to a request from Portugal to France.)

Whenever one of the two parties sends a case to the other that can be considered complex because it involves several authorities (e.g. involving the health and safety of workers, the payment of social security contributions and the issuance of posting certificates), the following process is used.

- The two proximity agents who have access to the IMI receive the case (usually the case is already anticipated via telephone), and the work process is centralised.
 - The five proximity agents try to give France an answer that is as complete as possible, in a reasonable amount of time.
 - In the course of case resolution, there are continuous exchanges between agents from the country receiving the request and colleagues from the same country working in other authorities, and exchanges between proximity agents working on the case and those from the country that sent the request. These exchanges take place via Microsoft Teams, by telephone or by email.
 - Finally, the result of the survey is also sometimes anticipated by email or telephone, and then communicated via the IMI, if the system allows.
-

Thanks to this close working relationship based on mutual trust and on the organisation of frequent meetings of the steering committee and with local proximity agents, the two parties have implemented a wide range of activities.

- **Awareness-raising activities.**
 - A meeting took place in Porto on 8 February 2018 between the Directorate-General for Labour, the ACT and social partners to decide on a message to convey to employees and employers.
 - An international seminar was held in Porto on 17 January 2018, ‘The transnational mobility of workers and companies’.
 - An information seminar was held in Lisbon on 20 January 2020, ‘The transnational mobility of workers and companies’.

- **Concerted inspections.**
 - A concerted inspection was conducted in a temporary work agency (in this case the inspection was prepared through an online meeting and carried out by the proximity agents through Microsoft Teams).
- **Joint training sessions.**
 - A joint training session took place in Lyon in March 2023, at which inspectors exchanged examples of good practices.
- **Methodological support.**
 - The two states' proximity agents have jointly drawn up two guides, one to be distributed on French territory and the other on Portuguese territory, explaining the respective labour law and social security regulations to be observed in relation to posting. These guides are considered to have been of great help in ensuring a more uniform understanding of the other country's very often different rules.

The contracting parties considered this way of working extremely useful and efficient, so much so that Portugal has proposed the same approach to Belgium to further improve the effectiveness of their exchange of information.

Factor 3. A common working language regime

A third factor that is considered to greatly facilitate the smooth progress of cooperation is identifying a common working language.

Of the 10 agreements considered, those that are still being implemented to date are BE–FR, BE–PT, EE–FI, EE–LT–LV, ES–FR–IT–PT and FR–PT. All those interviewed agreed that the efficiency of the cooperation over the years has undoubtedly been based in part on the fact that there is a fair degree of understanding of each other's languages.

The Estonian inspectorate emphasised the fact that even though English has come to be used more and more over the years, inspectors being able to understand each other on the Estonian–Finnish border, probably due to geographical proximity, greatly helped in the implementation of activities with Finland, as it did with Latvia and Lithuania, through Russian.

Although this factor may have waned over the years (due to the rise of English as a common language), it was, for the initial period in consideration (2003 to 2023), undoubtedly considered a highly relevant element of day-to-day cooperation.

Factor 4. The importance of an external support network

A final factor that probably deserves to be emphasised as a facilitator of collaboration is the presence of an external network to assist states' activities.

In the previous paragraphs, mention has been made of the Eurodétachement project and the Nordic Baltic Hub. Even if these were sparingly mentioned as a facilitating factor in the successful implementation of activities (FR–PT in relation to Eurodétachement, and EE–FI in relation to the Nordic Baltic Hub), the existence of **these networks has had a much greater impact on the multilateral agreements** we examined, in particular EE–LT–LV (2018) and ES–FR–IT–PT (2022).

One aspect that both the abovementioned multilateral agreements emphasised as essential for effective implementation was the presence of an external multilateral support network, in particular **the Nordic Baltic Hub, the ELA and Eurodétachement**. The existence of such networks that motivate and support cooperation between the three (or more) Member States involved helps in delineating priorities and allocating budgets for carrying out cooperation activities. In this context, an external support network is deemed **essential for the effective implementation of the activities envisaged in these agreements, when they go beyond the mere exchange of information**.

EE–LT–LV (2018). This agreement is very rich in terms of activities that could be carried out to protect posted and seasonal workers. Among the possible activities envisaged (Article 1 of the agreement), the annual meeting that is held alternately in Estonia, Latvia and Lithuania has produced the most valuable results. During the meeting, the three parties share information on common labour market issues and common solutions are sought. At the same time, the annual meeting provides an opportunity for each to learn from others and improve their own inspection working methods.

In terms of activities under the agreement, only exchange of information has been consistently smooth between Estonia and Latvia, and recently also between Estonia and Lithuania, through both the IMI and informal channels. According to the Estonian interviewee, the relationship with Lithuania improved markedly when the latter became part of the Nordic Baltic Hub. This allowed the partners to set up numerous additional activities and see each other frequently, and also to obtain funding.

FR–ES–IT–PT (2022). This agreement is mainly the result of the collaborative work carried out by the respective NLOs at the ELA. The results of this fairly recent cooperation arrangement have been deemed very positive. Two key events around which it developed can be identified:

- (1) a meeting in Lyon in December 2022, where 24 objectives were set to be taken forwards bilaterally, and seven actions set to be taken forwards multilaterally;
- (2) a meeting in Porto in November 2023, where the targets set for 2023 were evaluated, and those for 2024 were chosen (for 2024, 39 bilateral actions and 9 multilateral actions were planned).

At the 2023 activity evaluation meeting, it became clear that 90 % of the bilateral actions that the Member States had set themselves to carry out had been achieved. These results suggest that planning bilateral actions within a multilateral framework that offers support is of great help in the practical implementation of activities (joint inspections, training, writing of guidelines, etc.).

Some of the activities to be carried out at the multilateral level have also been realised. For example, France proposed as a multilateral priority the development of a channel or database where the four countries involved could report the potentially fraudulent companies on their territories. There was a first attempt to set up this database, although some problems quickly emerged, such as the fact that if a Member State detects suspicious activity but it is linked to a company that does not operate on the state's territory, the state has difficulty reporting it. Nevertheless, exchanges in person and via Microsoft Teams and the IMI are already under way to try to overcome this problem.

5.2.3.3. Challenging factors

Section N. IV of the questionnaires, forwarded as surveys and as preparation for the semi-structured interviews, included 11 challenging factors that might have hampered the implementation of the cooperation agreements. Among these 11 factors, 9 were mentioned by respondents to the surveys and to the semi-structured interviews, while one element (i.e. change in political priority) was added after having collected the feedback. Table 9 provides a global overview of the challenging factors detected.

Table 9. Challenging factors for implementing cooperation agreements

Challenging factors	Cooperation agreements
Lack of legally binding / enforceable obligations in the agreement	DK–FI–IS–NO–SE, LT–PL
Differences in national legal frameworks and inspection landscapes, leading to difficulties in reaching a common understanding of the phenomena	BE–PT, BG–DE (2023), CZ–PL, DK–LT, EE–LT–LV
Data protection issues	DK–FI–IS–NO–SE
Complexity of cross-border labour mobility rules	BG–DE (2010–2023), BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, DK–FI–IS–NO–SE, DK–LT, EE–LT–LV
Lack of human resources (understaffing)	BE–FR, BE–LU, BE–PL, BG–FR (2017), EE–LT–LV, FR–PT
Lack of financial resources	BG–DE (2010–2023), BG–FR (2008), BG–FR (2017), BG–NL, BG–PT, DK–LT, EE–LT–LV
Time gaps between information requests and subsequent reporting	EE–LT, EE–LT–LV, LT–PL
Communication and language barriers	BE–RO, BG–DE, CZ–PL, DK–FI–IS–NO–SE
Difficulties in enforcing administrative penalties or fines	EE–LT–LV, FR–PT, IE–PT, LT–PL
Changes in political priorities	BE–LU, BE–PL

The lack of legally binding / enforceable obligations in the agreement was rarely presented as an issue but was more often indicated as a potential challenge.

The respondent from Sweden reported that the lack of legally binding / enforceable obligations might hinder effective enforcement in the application of the agreement on a common Nordic labour market (DK–FI–IS–NO–SE). The respondent from Lithuania mentioned in the survey that the lack of legally binding / enforceable obligations is certainly a factor impeding the application of the agreement with Poland (LT–PL).

Time will tell whether the implementation of the memorandum signed in 2023 by Czechia and Poland will be impeded because it is not legally binding.

Differences in national legal frameworks and inspection landscapes can also severely challenge the implementation of the agreements, and, in fact, this was one of the elements most mentioned as hindering effective implementation.

For instance, the interviewee from Czechia reported that the organisational system and division of competences for the posting of workers on EU territory is very different between Czechia and Poland. This difference between the two states, combined with the large flow of workers moving from one state to another, was one of the reasons why Czechia and Poland concluded the new memorandum in 2023. It remains to be seen whether the memorandum will manage to fill this gap.

The interviewee from Portugal also pointed out that cooperation with Belgium is sometimes complex due to a different understanding of certain concepts and/or definitions, or difficulty in determining exactly whom to turn to for information or clarification.

Some Member States (BG–DE (2023), DK–LT, EE–LT–LV) indicated that differences in national legal frameworks and inspection landscapes can impede the uniform interpretation and application of the agreement, thus complicating enforcement efforts. For instance, Bulgaria mentioned that differences in the structure and responsibilities of different institutions responsible for labour inspections were a complicating factor in the application of the agreement with Germany.

Data protection issues were not indicated as a main concern by respondents. Only the respondent from Sweden mentioned that data protection issues can arise in the framework of Baltic cooperation, when producing updated commuting statistics between the Nordic countries.

The complexity of cross-border labour mobility rules was indicated in the survey replies by several respondents. They emphasised that the complexity of labour mobility rules constitutes a challenge in the effective implementation of cooperation agreements. Related to this, the respondent from Bulgaria pointed out that **mobile workers' lack of information about their rights** and the **illegal practices of intermediary agencies** had hindered the effective application of Bulgaria's agreement with Germany (BG–DE (2008), BG–DE (2023)).

The lack of human and financial resources was mentioned in several responses as a major challenge (see Table 9). The semi-structured interviews pointed to specific examples where this challenge is apparent.

For instance, the respondent from Belgium pointed out that the existence of bilateral agreements can lead to very ambitious goals, but this activity also requires a great deal of time. This is time that often has to be taken away from other, equally important control activities on national territory. An example is what happened during COVID-19 when the inspection bodies' maximum effort went into checking distancing measures. In this particular circumstance, the agreements that Belgium managed to keep active were exclusively those where there was a longer-standing cooperation relationship, and where there were resources specifically dedicated to carrying out international cooperation activities (the agreement with France and the one with Portugal; see above). In contrast, the agreements with Luxembourg and Poland were somewhat sidelined (albeit COVID-19 was not the only reason; see below).

The Estonian respondent also reiterated that these two shortcomings represent one of the main challenges to better cooperation. In fact, both the agreement with Finland and that with Latvia and Lithuania provide for the possibility of carrying out joint inspections, but organising them has often been postponed over the years precisely because of a lack of funds or qualified staff.

Similarly, the respondent from Portugal emphasised the lack of financial resources that often limits the actions that the parties would like to carry out. Interestingly, Portugal did point out that the establishment of the multilateral cooperation arrangement with Spain, France and Italy has diminished this challenge slightly, as has the financial support provided by the ELA.

Time gaps between information requests and subsequent reporting are mentioned in several survey replies. For instance, the respondent from Latvia emphasised that delays in information exchange processes could hinder timely enforcement efforts (e.g. EE–LV, LT–LV). Similarly, the Lithuanian respondent indicated that time gaps between information requests and their subsequent reporting remained a challenge in the enforcement of the agreement with Poland. Additionally, in some survey replies, this challenge was linked to the divergent levels of digital maturity Member States have in regard to the digital tools available to implement cooperation measures. For instance, the respondent from Latvia pointed out that disparities in digital tools and technological capabilities among Member States could affect the efficiency and effectiveness of enforcement activities (e.g. EE–LT–LV). Lithuania also stated that the lack of convergence of digital tools and technological capabilities constituted an impediment when enforcing its agreement with Poland (LT–PL).

Communication and language barriers also represent a challenge. This was mentioned by some Member States, which sometimes linked the difficulty in implementing effective coordination and cooperation between authorities to the distance between the languages spoken. For instance, the respondent to the Finnish survey stated that, regarding the application of the agreement on the Nordic labour market, all Nordic languages are quite similar to each other except Finnish, which is very different. This barrier was also mentioned as a definite obstacle in some of the semi-structured interviews with respondents from Belgium, Czechia and Poland.

Difficulties in enforcing administrative penalties or fines were mentioned in three surveys about three agreements (EE–LT–LV, IE–PT, LT–PL). During the semi-structured interviews, this was mentioned by respondents from Portugal and France, who confirmed the difficulty of implementing sanctions issued by other Member States. While Portugal conceded that the implementation of sanctions issued by other states is still difficult, France provided data, based on a report (December 2022) by the Directorate-General for Labour covering 2020–2021, that showed that, of the administrative sanctions issued by France in that period, 89 % were collected by Belgium, 59 % by Portugal and 45 % by Spain.

Changes in political priorities were identified as a challenge by the research team, as during the semi-structured interviews it emerged that, in some instances, less emphasis was put on the implementation of

the agreements analysed here because of a change in political priorities. Two examples were given by the Belgian representative, in particular in relation to the agreements with Poland and Luxembourg. These two agreements, which used to be very active and even gave rise to joint inspections and trilateral meetings between Belgium, Luxembourg and Poland, have been sidelined due to changes in political priorities in recent years.

5.2.4. Complementarity of cooperation agreements with the European Labour Authority's work and the EU legal framework

5.2.4.1. Role of the European Labour Authority

The consensus during the semi-structured interviews was that the ELA has had a positive impact on the work of inspectorates in the EU and offers complementary value to the bilateral and multilateral relations between Member States. According to several respondents, the ELA is able to provide Member States with a global overview of the issues and challenges in the Member States in the area of labour mobility. For instance, the respondent from Estonia noted that, although targeted initiatives (i.e. **bilateral and multilateral agreements**) that make it possible to tailor agreements to specific regional complexities and features are still vital in this area, the fact that the ELA can provide a bird's-eye view across the EU-27 is particularly important. It was stressed that the ELA should further contribute to breaking down barriers between Member States and creating more opportunities for labour inspectorates to meet more often and create relationships of trust. Similarly, the Portuguese interviewee indicated that the ELA offers the opportunity to provide Member States with a global overview of the EU labour market. Member States alone do not have this view, and therefore the fact that the ELA can inform them and train them on cross-cutting issues is of great help in tackling illegal employment, accidents at work and the correct application of rules on posting.

Additionally, the findings of the survey replies and semi-structured interviews revealed that many respondents see a (future) role for the ELA in the negotiation and/or implementation of cooperation agreements in the field of labour mobility. Possible pathways are further explored in Section 6.2.2. An exception here was the survey reply from the Swedish respondent, who mentioned that cooperation regarding the common Nordic labour market is handled by the Nordic Council of Ministers, the Nordic Council and other stakeholders in the Nordic countries, indicating that there is no immediate need for active support from the ELA. The respondent from Germany indicated that no role is currently envisaged for the ELA in supporting the negotiation and/or implementation of cooperation agreements.

5.2.4.2. Complementarity of cooperation agreements with the EU legal framework

The EU legal framework on labour mobility, including the related posting and social security *acquis*, has evolved greatly over time. This includes a wide array of cooperation obligations and (digital) tools to exchange information (e.g. the IMI) that now have a legal basis in EU rules and obligations. In addition, the presence of well-functioning transnational networks in the area of labour mobility (e.g. the ELA, the SLIC, Eurodétachement) is not to be underestimated. Thus, a central question that needs to be answered is how this has affected the usefulness of cooperation agreements. In other words, the survey and semi-structured interviews dealt with the question of whether bilateral and multilateral cooperation agreements are redundant or instead complement the rules and obligations laid down by the EU regulatory framework and the existence of transnational networks.

An important context for considering this is the changing relevance and sometimes dormant nature of some of these cooperation agreements, noticeable in some answers by respondents and interviewees when asked about the implementation in practice of the different measures. For instance, the survey reply from Bulgaria indicated, with regard to its agreement with Portugal, that provisions on the organisation of training, seminars and conferences and the development of shared projects have not been implemented. This is also noticeable in relation to the agreement concerning the Nordic labour market, where the survey reply from Denmark mentioned that the agreement has lost some its practical meaning today because most of the provisions have been incorporated into (Danish) national law. This response also noted that the cooperation measures in

many of Denmark's agreements have not been formalised or standardised and instead are only implemented ad hoc (e.g. DK–LT, DK–LV, DK–PL (2015), DK–PL (2017), DK–RO, DK–SK). For instance, it was mentioned repeatedly that activities aimed at improving the awareness of posted workers are rarely implemented (e.g. DK–LT, DK–LV, DK–PL (2015)). The same can be said of the organisation of joint inspections or staff exchanges (e.g. DK–PL (2017)). The respondent from Latvia also indicated that the provisions in Latvia's cooperation agreement with Denmark aimed at joint planning of enforcement actions or improving awareness of the rights of posted workers have not been implemented on a regular basis.

Nonetheless, within that context, a majority of the interviewees noted that cooperation agreements in this field still add value to the existing EU *acquis*. In particular, two elements emerged consistently.

The first element is that **bilateral and multilateral agreements allow Member States to set more targeted objectives, complementing and deepening the exchange of information through the IMI.**

One example of cooperating agreements making it possible to go further than the regulatory framework came from the interviewee from Estonia, who pointed out that, although all Member States have adhered to the obligation to publish on a single national website accurate and updated information on the terms and conditions of employment applicable to posted workers (provided for in Article 3 of Directive (EU) 2018/957), this is not sufficient to ensure that employers and employees are really informed about these terms. For this reason, Estonia and Finland, on the basis of their agreement, concluded in 2014, have organised so-called online information mornings during which Estonian inspectors provide answers to questions posed by employers and posted workers.

Another example came from the respondent from Portugal, who reiterated that although information was made available on the national website, it was during one of the steering committee meetings that French inspectors truly understood how to interpret a Portuguese payslip.

Interviewees from Czechia and Poland indicated that one of the core objectives of their agreements is to exchange information on exactly those issues on which information could not be exchanged through the IMI. Examples given related to information on collective agreements and how to interpret certain definitions in the national legislation of the other party (e.g. the definition of an employment relationship).

The interviewee from France also emphasised that cooperation agreements add value to the existing *acquis* because they give Member States the possibility of choosing faster and more efficient ways of cooperating. One example is the case of the proximity agents and the steering committee on the basis of the French agreement with Portugal. Another example is France's agreement with Belgium, under which exchange of information on posting (except in relation to administrative sanctions) happens not through the IMI, but through SIPSI (the French portal for sending documents on posting).

Nonetheless, a small number of survey replies countered this argument. For instance, the reply from a German respondent pointed out that, although all bilateral cooperation agreements complement the existing legal bases on mutual administrative assistance in the fight against undeclared work and illegal employment, the current legal bases at the EU level have also been further developed, with the result that provisions corresponding to those in the bilateral cooperation agreements have now also been incorporated into EU law (e.g. Article 8 of Directive 2014/67/EU). The response from Slovakia also mentioned that its cross-border cooperation with Poland in inspections is now implemented through the IMI system. From Slovakia's perspective, this represents the fastest and most effective tool for exchanging the information necessary to perform labour inspections. This was also mentioned in the reply submitted by the Lithuanian respondent, which indicated that, in Lithuania's agreement with Poland (2005), the provisions on exchange of information no longer serve as a legal basis, as the establishment of the IMI has replaced this function.

The second element is that **bilateral and multilateral agreements allow Member States to align priorities on a practical level and provide a direct motivation to cooperate with each other in an effective and efficient way, and thus also to make better use of the international cooperation networks in which they find themselves (e.g. the SLIC, Eurodétachement, the ELA).**

Many interviewees noted that the existence of cooperation agreements creates a culture of cooperation with the other parties, notwithstanding the fact that almost all of them actively participate in other transnational

networks that allow for continuous exchange between a multitude of Member States. Specifically, the transnational networks of the SLIC, Eurodétachement, the Nordic Baltic Hub and the ELA were mentioned frequently by the interviewees as vital components of their cooperation with other Member States.

The objective of the SLIC is to assist the European Commission in monitoring the enforcement by the Member States of EU legislation at the national level on all matters relating to health and safety at work. The SLIC was formalised by the European Commission in 1995 but had existed since 1982. Since all the agreements in focus originated after this date, these were also seen by the interviewees as having **consolidated** cooperation that had existed within the SLIC framework (e.g. BE–FR (2003), BE–LU (2008), BE–PL (2007)) or as having **initiated** it within the framework (e.g. BE–RO (2013), CZ–PL (2023)).

The **Eurodétachement** project (launched by the European Commission in 2010) is a project on transnational cooperation in the field of the posting of workers. Meetings are organised periodically. It is specifically in this context that the idea and realisation of some of the cooperation agreements in focus were conceived, for example, EE–FI (2014) and FR–PT (2017).

For instance, the interviewee from Portugal explained how crucial the contribution of this project had been for the realisation of a large number of activities that would otherwise never have been implemented due to a lack of funds (e.g. joint inspections, seminars, training, creation of information materials).

Similarly, the respondent from Estonia stressed the fact that the idea of an agreement with Finland was initially brought up in the course of a Eurodétachement meeting. Estonia also noted the benefits and support of the **Nordic Baltic Hub** in the implementation of the cooperation measures listed in its agreements. This hub is a network that exists not by virtue of a formal agreement but simply as a result of a shared understanding between Denmark, Finland, Iceland, Norway and Sweden (the Nordic countries) and Estonia, Latvia and Lithuania (the Baltic countries). It is the successor of the Nordic undeclared work project funded by the European Commission.

Nonetheless, respondents almost unanimously argued that having an individual cooperation agreement with Member States, which goes beyond the more general cooperation envisaged in these transnational networks, makes it possible to cooperate more efficiently and effectively. For example, according to the Portuguese respondent, Portugal prioritises information requests coming from a Member State with which there is an agreement in force over those coming from Member States with which there is no collaborative relationship.

All these elements lead to the conclusion that, although all the interviewed Member States make very good use of the initiatives suggested (or imposed) at the EU level, and are well established in the transnational cooperation networks, **the presence of bilateral or multilateral agreements makes this cooperation smoother and more effective in almost all cases analysed.**

Finally, a small number of survey replies indicated that the establishment of (EU) transnational network bodies has diminished somewhat the value of concluding cooperation agreements. For instance, the survey reply from the Netherlands stressed that the initiative for most cooperation agreements was taken before the establishment of multilateral bodies, such as the ELA, that have enabled cross-border cooperation. According to this response, many of the benefits of cooperation agreements can be realised through the ELA (e.g. quick contact with the right authorities, exchange of good practices, concerted and joint inspections). The Slovakian respondent to the survey echoed this reasoning to some extent in stating that cooperation based on the agreements is, in practice, only implemented to a limited extent and has been replaced by cooperation through ELA-supported activities. Finally, the Latvian respondent emphasised that the ELA provides cooperation support, especially in information exchange and joint activities, that (with the assistance of NLOs) can substitute for some of the previous agreements. For instance, the Danish respondent mentioned that some of their cooperation agreements are almost dormant due to the use of other cooperation formats that are more effective.

6. Operational conclusions

This study aimed to achieve two objectives:

- (1) to **identify and collect bilateral/multilateral agreements on EU labour mobility** concluded between Member States (with a focus on those that deal with the posting of workers in the context of the free provision of services);
- (2) to **analyse these agreements** with a view to:
 - identifying practices by the contracting Member States or arrangements set up under the agreement itself that are conducive to the successful implementation of the agreement and the achievement of the intended results;
 - identifying those elements of the agreements that have had the strongest impact in practice;
 - showing the complementarities of these agreements with the existing legal framework and with the existing policies related to EU labour mobility, for instance the IMI;
 - emphasising how the ELA can support and complement the implementation of these agreements.

The study team developed an integrated methodology based on desk research and empirical analysis with a view to achieving these objectives. This section briefly summarises the main findings for each phase of the study (Section 6.1). This is followed by listing possible pathways for further action at the EU level and at the national level (Section 6.2).

6.1. Main findings

Several conclusions can be drawn based on the different study phases. On the one hand, the conclusions derived from the desk analysis (Section 6.1.1) primarily pertain to **the form and structure of the bilateral agreements**, aligning with insights from a literature review. On the other, the conclusions from the empirical analysis (Section 6.1.2) offer a deeper understanding of the **factors that facilitate or hinder the negotiation and conclusion of agreements** in the field of EU labour mobility. Integrating the results from both research phases allowed the **formulation of possible pathways at the EU and national levels** (Section 6.2).

6.1.1. Summary of the main findings from the desk analysis

During the process of collecting agreements for analysis, several challenges were encountered, as detailed in Chapter 4. Despite these initial difficulties, the study team successfully identified a substantial number of agreements, namely five multilateral agreements and 55 bilateral agreements, totalling 60 agreements in the field of labour mobility. Access to the texts of these agreements enabled the team to draw conclusions through a comparative desk analysis.

6.1.1.1. Unavailability of bilateral agreements, variety in terminologies and concepts, and linguistic barriers

As just mentioned, the research team encountered significant difficulties in identifying the existing bilateral agreements and in obtaining the (official) texts of the agreements collected. Often, the available texts were not in their original languages. This issue complicated efforts to interpret precisely the terms used by the parties, such as 'illegal employment' and 'undeclared work', which were often used interchangeably.

Key takeaway: absence of an accessible repository for bilateral agreements on EU labour mobility

The desk research revealed that bilateral agreements on EU labour mobility and posting are **not systematically publicised** by Member States and that there is no centralised depository or online database. Some Member States make reference to the bilateral agreements on the websites of the enforcement authorities involved, but they do not always contain the texts of these bilateral agreements. Bilateral agreements are often concluded in the (two) official languages of the respective contracting parties, while an (additional) version in English is often also concluded. Sometimes the contracting parties only sign a version in English and no other versions in the languages of the contracting Member States are concluded. Finally, some of the bilateral agreements that were collected do not seem to be in their official, original version and/or were translated by the study team.

This raises **questions on the comparability of the definitions and concepts** used in the bilateral agreements. These vary considerably and require a clear understanding on the part of the enforcement authorities involved in implementation in the respective Member States. Apart from the definitional and conceptual challenges, there are **differences in the organisational and administrative set-up of the competent enforcement authorities** in Member States, which equally requires a proper mutual understanding from both sides.

The findings from the desk research point to **the need to establish a common glossary for the conclusion of bilateral agreements, to have a centralised repository of all bilateral agreements, to ensure the adequate translation of the bilateral agreements and to provide information and/or training on the administrative set-up and responsibilities of the enforcement agencies in Member States with which bilateral agreements are concluded.**

These findings were confirmed during the empirical field research, which, among other issues, revealed that in some instances older bilateral agreements were unknown to newer staff members of the enforcement authority concerned, demonstrating deficiencies in institutional memory.

6.1.1.2. Similar structures but different levels of comprehensiveness in bilateral agreements

The textual analysis revealed that bilateral agreements often exhibit a similar structure, which largely follows the 'ideal model structure' proposed in the *Practitioner's Toolkit* released by the EPUW (Stefanov and Mineva, 2017b), namely (1) introduction, (2) purpose / areas and objectives covered, (3) time frame / duration, (4) jurisdictions and responsibilities, (5) scope of the cooperation, (6) use and disclosure of information/ confidentiality/publicity, (7) storage of information, (8) format of information requests, (9) details of the joint inspections, (10) management, (11) contact points, (12) disputes and complaints, (13) review/evaluation, (14) signatories and (15) annexes.

However, differences can be seen between the texts of the bilateral agreements in terms of the level of detail and comprehensiveness. Not all bilateral agreements cover all dimensions contained in the model structure of the *Practitioner's Toolkit*.

Key takeaway: differences in the level of comprehensiveness of the agreements

The majority of the 60 agreements collected adhere to the model structure described in the *Practitioner's Toolkit* from the EPUW. However, in spite of their similar structure, differences can be observed in the level of detail. Topics that are frequently not contained in the texts of bilateral agreements are (1) the jurisdictions and responsibilities, including the assignment of the competent authorities; (2) the format of and procedures for the exchanges and the format of information requests and related replies; (3) procedures for joint inspections; and (4) details on the respective contact points and means of communication.

Bilateral agreements that are less descriptive and/or that do not cover areas of (operational) cooperation between the respective enforcement authorities in sufficient detail are more likely to face challenges in implementation. This finding was confirmed by the findings from the empirical research as described in Chapter 5, which lists the factors that facilitate the implementation of agreements (i.e. the appointment of a joint commission / steering committee / contact points).

6.1.1.3. The replication of (the texts of) bilateral agreements

Based on the research, 25 Member States (of the 32 considered) have concluded bilateral agreements in the area of EU labour mobility. Of these, 13 Member States have concluded between 5 and 12 bilateral agreements in total. They are (in descending order) Portugal, France, Poland, the Netherlands, Belgium, Bulgaria, Luxembourg, Romania, Czechia, Germany, Denmark, Estonia and Spain.

Interestingly, bilateral agreements concluded by particular individual Member States **often use similar or even identical structures and/or wording. This may point to the fact that Member States tend to establish a particular model, and when it works, they tend to replicate it with other countries. At the same time, it is observed that those agreements with a relatively low level of customisation suffer in terms of the effectiveness of the implementation of the agreements.**

For instance, Belgium's bilateral agreement with Poland in 2007 was promptly followed by the conclusion of two identical agreements with Luxembourg in 2008 and Portugal in 2009. The bilateral agreements concluded by Denmark also apply a similar structure and almost identical terminology. It happens that the structure of an agreement established with an initial 'pilot' counterpart Member State is replicated with other Member States without altering any key aspects. The relatively low degree of customisation of some of the bilateral agreements concluded by individual Member States can be shown by examining the bilateral agreements Denmark has concluded with Latvia, Lithuania, Poland, Romania and Slovakia. The bilateral agreements concluded with Poland and Romania are almost identical formally and structurally to those concluded with Latvia, Lithuania and Slovakia. There are only minor differences. For instance, the agreement with Poland (2015) specifies that the review and evaluation of the agreement itself is carried out by the steering committee, thus determining a competent body. In the DK–RO agreement (2018), a mechanism for a review every two years is included. In contrast, the other three bilateral agreements that Denmark has signed do not specify any review mechanism or monitoring responsibilities.

Key takeaway: replication of (structure and text of) bilateral agreements

Some bilateral agreements collected from individual Member States are copied from one country to another using identical structures and provisions with very minor or no adjustments. These agreements are often formulated more generally and tend to be less reflective of the needs of both sides in developing effective cooperation. Standard structures and texts are used, and little attention is paid to provisions that would foster effective operationalisation of the agreement concluded, such as the establishment of monitoring and evaluation mechanisms.

Using replicas to conclude bilateral agreements without sufficient customisation for the needs of the contracting parties and enforcement agencies seems to point to a greater risk that these agreements will not be implemented effectively in practice. Sufficient time and resources need to be assigned to the preparation and negotiation of the bilateral agreements in order to ensure more successful implementation.

This finding was confirmed by the empirical research. Examples of replica bilateral agreements are those concluded by Denmark and the Netherlands. They have concluded 5 and 10 agreements, respectively, but from the survey replies, it appears that these agreements are not implemented effectively. The empirical research also determined that the establishment of a steering committee or of specific review mechanisms are important factors that contribute to the effective implementation of the agreements concerned (see Section 5.2.3.2).

6.1.1.4. Involvement of relevant authorities in the bilateral agreements

The desk research revealed the types of actors that are involved in the signing and/or implementation of the bilateral agreements. Most often these are similar public bodies or authorities with comparable competences in the respective Member States, pointing to a degree of linear relationship between authorities with similar mandates in the respective Member States. No bilateral agreements have been identified in which other relevant enforcement authorities have been involved in addition to those that signed the agreements concerned.

However, from available research, labour enforcement agencies from host Member States are often dependent on cooperation and information provision from enforcement authorities in the sending Member States other than those that have similar competences (e.g. social security bodies, tax authorities), especially when posting situations are involved. The absence of those authorities in the signing, conclusion and implementation of the bilateral agreements collected may demonstrate a weakness affecting the effective operationalisation and implementation of the bilateral agreements, unless this is covered by adequate interinstitutional cooperation within the sending Member States involved. These national interagency cooperation agreements between the different relevant enforcement authorities can serve as a safety net in support of the effective implementation of the bilateral agreements. Other research undertaken by the ELA has revealed, however, that often there are no such national bilateral cooperation agreements, especially in relation to the tax authorities. However, desk research revealed that tax authorities from Member States have strong bilateral cooperation under the directive on administrative cooperation, while there are several bilateral agreements between Member States in the area of the income taxation of persons and businesses.

The desk research demonstrated that in none of the bilateral agreements collected are tax authorities involved. Yet these authorities often have critical responsibilities for detecting infringements in posting situations. Similarly, enforcement authorities in the field of (international) road transport have not been involved in the negotiation and implementation of the bilateral agreements in spite of the adoption of important (new) EU instruments such as those outlined in the 2020 Mobility Package I, and particularly in Directive (EU) 2020/1057 on posting in the international transport sector.

Key takeaway: involvement of all relevant enforcement authorities

The desk research reveals that the bilateral agreements collected were concluded by enforcement authorities with similar mandates in the respective Member States and were most often initiated by labour inspectorates or the related ministries under which they operate.

However, the enforcement of posting rules in the labour domain, including social security and international road transport, presupposes interagency cooperation not only in the respective Member States but also across borders. Moreover, effective cross-border enforcement requires the cooperation of enforcement agencies from the respective Member States with mandates other than or complementary to those entrusted to the signatory parties to the bilateral agreements. Not involving those other enforcement agencies in the operational frameworks seems to restrict the chances of effective enforcement.

Two general approaches can be taken in order to tackle this challenge. Either other enforcement authorities are more closely involved in the preparation and implementation of the bilateral agreements, or the bilateral agreements are adequately supported by national interagency cooperation, including on exchange of data.

This finding applies to all the bilateral agreements collected, both the more general ones and those that were designed in detail. Even the most comprehensive and customised bilateral agreements remain subject to the need for adequate interagency cooperation within Member States and across borders. In its absence, bilateral agreements are more likely not to be effective in practice.

This finding was confirmed by the empirical research. For instance, under the FR–PT agreement, the steering committee is composed of the institutions competent to implement the agreement. For the French party, those are the Directorate-General for Labour and the State Labour Inspectorate, while for the Portuguese party, those are the ACT and the Social Security Institute. Each of them acts within its respective competences. Additionally, during semi-structured interviews discussing the multilateral cooperation arrangement between Spain, France, Italy and Portugal, it was stressed that locating all the relevant authorities with competence (i.e. labour and social security) in each of the Member States was an important first step. During the interviews, it was also suggested to enlarge the cooperation arrangement to other authorities in the future, which is also relevant to the ELA's mission.

6.1.1.5. The correlation between the number of agreements and the adoption of new EU legislation

One interesting aspect that emerged during the desk research is that of the timing of the conclusion of bilateral agreements in relation to the adoption of relevant EU legislation that affects cross-border cooperation in the area of labour mobility and posting.

The study team analysed a 20-year time frame spanning from 2003 (BE–FR) to 2023 (CZ–PL) and observed that some agreements align closely with significant legislative changes at the EU level. For instance, all agreements Denmark signed between 2015 and 2018 reflect the adoption of Directive 2014/67/EU. This directive is referenced in 16 subsequent agreements adopted after its entry into force on 18 June 2016. Conversely, it is noteworthy that other EU legislative initiatives that significantly impact cross-border cooperation, such as the establishment of the IMI under Regulation (EU) No 1024/2012, have not explicitly influenced the texts of later agreements. Among the 60 agreements collected, 27 were signed after 2012, yet only 7 explicitly mention the IMI as a method for information exchange.

Key takeaway: correlation between new EU legislation and the conclusion of bilateral agreements

The correlation that was observed during the desk research is based on too few cases to draw definitive conclusions about whether the introduction of new cross-border enforcement rules at the EU level, such as the 2014 enforcement directive, increases the need for bilateral cooperation or whether the number of agreements decreases when an EU-level cooperation rule comes into force, as may have been the case with the IMI.

However, a textual analysis reveals that EU cooperation and coordination instruments are almost always mentioned in multilateral and bilateral agreements, at least in the recitals. This is particularly evident with reference to Directive 96/71/EC, Regulation (EC) No 883/2004, Directive 2014/67/EU and Directive (EU) 2018/957.

6.1.2. Summary of the main findings from the empirical analysis

The empirical analysis revealed several **factors that facilitated the negotiation** of bilateral and multilateral agreements. At the same time, **several challenges** were also identified, which have the potential to impede a successful negotiation process. Table 10 summarises these factors.

Table 10. Comparison between facilitating and challenging factors for negotiating bilateral cooperation agreements

No	Facilitating factors	Challenging factors
(1)	Previous interinstitutional cooperation	Scope of the cooperation measures envisaged
(2)	Professional network/contacts	Differences in institutional set-up
(3)	Geographical proximity / neighbouring Member States	Lack of human and financial resources
(4)	Flow of incoming and/or outgoing posted workers between two Member States	
(5)	Similar national regulations / working practices	
(6)	Similar institutional information and communication technology systems	
(7)	Similar working language	
(8)	Political prioritisation	

6.1.2.1. Mutual understanding of the respective concepts and institutional set-ups

The empirical analysis allowed the research team to confirm some uncertainties that had already emerged during the desk analysis of the selected texts. Earlier reference was made to the importance of being able to have access to the texts of the agreements in their original language in order to avoid misunderstandings. It is interesting to note that among the factors that facilitate entering into agreements between two (or more) Member States, specific mention is made to previous institutional cooperation, and professional networks / professional contacts. Conversely, the conclusion of agreements may be hindered by differences in the institutional set-ups of the Member States in question. These factors read together make it possible to infer that when there are different institutional set-ups and different concepts applied, prior institutional contacts or relationships or personal exchanges between the parties may help resolve these potential obstacles. However, misunderstandings during a later stage of the implementation of the signed agreement can occur when there is no proper transfer of knowledge or relationships within the institution concerned, which points to the need to ensure a good institutional memory.

6.1.2.2. The coexistence of international network(s) and bilateral cooperation

Analysis of the responses obtained from semi-structured interviews and surveys revealed different opinions on the coexistence of the international networks such as the ELA, the SLIC and Eurodétachement on the one hand and bilateral cooperation on the other. For Czechia, the presence of the ELA was a significant motivation for concluding the memorandum with Poland in 2023, as for it and some other Member States, the ELA represents a broad international network that facilitates such bilateral cooperation. Other interviewees, such as one from Belgium, argued that the conclusion of new bilateral agreements may become redundant and may only increase the workload in the context of the already limited resources that are available if no additional support is provided. Most interviewees valued the existence of the international networks, in particular the SLIC, because they offer a suitable environment for collaboration and resources in support of the network.

Key takeaway: complementarity of bilateral and multilateral agreements and international networks

Most respondents to the semi-structured interviews view bilateral agreements as highly effective for achieving specific objectives between two Member States that have common characteristics (e.g. similar labour markets) or share intensive labour mobility flows. Only a few considered the conclusion of new bilateral agreements redundant, mainly because of the limited resources that are available to implement such agreements.

However, there is an even stronger consensus on the value of multilateral agreements. Representatives of Belgium, Estonia, France and Portugal emphasised the importance of their multilateral agreements. Some arguments in favour of multilateral cooperation are:

- multilateral agreements are often guided by an organisation that can coordinate and finance activities, allowing for more effective and longer-lasting results;
- more countries are involved, with similar goals, issues and perhaps possible solutions, which makes the exchanges between the parties more fruitful;
- multilateral arrangements do not preclude the possibility of activities at the bilateral level.

The empirical research revealed that **bilateral and multilateral cooperation instruments concluded between Member States on labour mobility are still deemed necessary** by the primary stakeholders, but for specific reasons and provided the necessary resources are available to ensure their effective implementation. Common characteristics or challenges between two Member States seem to justify the conclusion of (new) bilateral agreements. This may imply that fewer bilateral agreements will be operational in future and that fewer new bilateral agreements will be concluded. However, multilateral agreements, specifically within a particular geographical or regional context, are still considered very useful by national enforcement agencies, especially when they allow for bilateral cooperation and when sufficient resources are available.

Moreover, the empirical research revealed potential complementarity between the bilateral and multilateral agreements on the one hand and the activities of the ELA and other transnational networks on the other. At present, this complementarity has not yet been achieved, and it may happen that bilateral agreements and cooperation mechanisms operate in parallel with the functioning of the ELA and other transnational networks. There is room for enhanced coordination and greater interconnectedness.

The empirical analysis also revealed several factors that facilitated or challenged the implementation of bilateral and multilateral agreements. Table 11 summarises these factors.

Table 11. Comparison between facilitating and challenging factors for implementing bilateral cooperation agreements

No	Facilitating factors	Challenging factors
(1)	Relationship of mutual trust between the enforcement authorities working on the implementation of the agreements	Lack of legally binding / enforceable obligations in the agreement
(2)	Establishment of a joint commission	Differences in national legal frameworks and inspection landscapes, leading to difficulties in reaching a common understanding of the phenomena
(3)	Common language regime	Data protection issues
(4)	External supporting network	Complexity of cross-border labour mobility rules
(5)		Lack of human and financial resources (understaffing)
(7)		Time gaps between information requests and their subsequent reporting
(8)		Communication and language barriers
(9)		Difficulties in enforcing administrative penalties or fines
(10)		Changes in political priorities

6.1.2.3. Continuous communication, rapid exchange of information and creation of a monitoring mechanism

A comprehensive analysis of the factors facilitating and hindering the implementation of the agreements examined reveals that one of the most significant factors enhancing both the quantity and quality of cooperation activities is the maintenance of consistent and frequent exchanges with counterparts. These exchanges, once formalised through the agreement (as exemplified by the 2017 agreement between France and Portugal), also continue informally through various means such as calls, messages, emails and video calls. This frequent communication, as corroborated by interviews with respondents from Estonia, France, Portugal and partially Belgium, enables the more prompt and effective acknowledgement of requests and diligent handling of potential bottlenecks during (joint) activities.

Key takeaway: effective lines of communication and monitoring mechanisms

The findings from the field research revealed that, when bilateral or multilateral agreements contain provisions that establish contact points and procedures for exchange of information, the organisation of regular meetings and/or monitoring and review mechanisms, they have a higher chance of being implemented effectively.

The BE–FR (2003) and FR–PT (2017) agreements are a clear example of this. In the case of the latter, the presence of local proximity agents alongside the steering committee has made a clear difference to the number of cooperation activities implemented and the intensity of the cooperation on the ground.

However, it is important to note in this regard that, in the absence of such clauses or mechanisms within the agreement, Member States are leveraging opportunities provided by the ELA and other international networks to meet and collaborate. These activities organised at the EU level enable countries to review and monitor the progress of their agreements without incurring additional costs and to engage with their counterparts.

6.1.2.4. Mutual recognition of the respective challenges

Another significant element that emerged from analysing the factors that encourage or hinder bilateral cooperation between Member States in labour mobility is the recognition that a strong willingness to cooperate facilitates the overcoming of potential obstacles. This was exemplified by the 2023 memorandum between Czechia and Poland, which initially lacked shared purposes, goals and even common terminology. However, through negotiation, these issues were resolved, primarily due to Poland's willingness to make compromises to achieve the larger goal of better protecting workers posted from Poland to Czechia.

In addition, Belgium and Portugal, despite facing difficulties in implementing their 2009 agreement due to different national organisational structures and divisions of competences, managed to find effective communication methods through continuous exchanges on uncertainties and questions.

Additionally, the Estonian representative emphasised the challenges in implementing cooperation activities, such as joint inspections, with Latvia, Lithuania and Finland. These challenges were mitigated by Estonia's request for financial support from the ELA, demonstrating how external assistance can facilitate cooperation.

Similarly, the research identified that changes in **political priorities** are also a key challenge. During the semi-structured interviews, it emerged that in some instances less emphasis was put on the implementation of the agreements analysed specifically because of a change in political priorities. Two examples were given by the Belgian representative, in particular in relation to the agreements with Luxembourg and Poland. These two agreements, which used to be very active and even gave rise to joint inspections and trilateral meetings between Belgium, Luxembourg and Poland, have been sidelined due to changes in political priorities. Political prioritisation was also a major factor in concluding several of the Danish agreements, according to the Danish respondent to the survey (i.e. DK–LT⁽¹⁰⁴⁾, DK–LV, DK–PL, DK–RO, DK–SK). Therefore, a strong and continued commitment on all (political) levels is paramount for the effective drafting and implementation of cooperation agreements.

Key takeaway: mutual trust

Mutual trust between the parties, fostered by continuous and recurrent meetings, the establishment of a joint commission to evaluate the agreement, the support of the ELA and other international networks and a common language are all critical elements that contribute significantly to and enhance Member States' willingness to find solutions to problems encountered during the implementation of agreements.

6.2. Operational conclusions and suggestions

The desk and empirical analysis of the 60 bilateral and multilateral agreements concerned with EU labour mobility (and posting) collected for this study resulted in the research findings presented in the previous section.

When such actions are considered in relation to the tasks outlined in Article 4 of Regulation (EU) 2019/1149, the ELA could play a role in the follow-up of these actions, taking into account the regulation's different tasks:

- the facilitation of access to information;
- the facilitation of cooperation and exchange of information between Member States, with a view to the consistent, efficient and effective application and enforcement of relevant EU law;

⁽¹⁰⁴⁾ The respondent from Lithuania also confirmed in their reply that strong political commitment in Denmark and Lithuania played a major role in concluding this agreement.

- the coordination of and support for concerted and joint inspections;
- the carrying out of analyses and risk assessments on issues relating to cross-border labour;
- the provision of support to Member States with capacity building for the effective application and enforcement of relevant EU law;
- the mediation of disputes between the national authorities.

6.2.1. Actions at the EU level

Play a coordinating and facilitating role during the preparation, implementation and review of the cooperation agreements. Member States could seek further support from the ELA NLOs in both facilitating contacts and exploring cooperation opportunities. In that context, survey responses from Latvia and Hungary already indicated the benefits of information exchange through the NLOs. By enhancing these communication channels, the ELA could ensure that relevant information was promptly and efficiently shared between Member States, aiding in the resolution of issues and the implementation of joint activities.

Additionally, Member States could seek the **technical and logistical support offered by the ELA** to organise joint meetings and explore deepened bilateral relations. For instance, the respondent from Latvia put forwards a proposal to organise a joint seminar on posted workers with the labour inspectorates of the Baltic states, the Nordic countries and Poland. Additionally, the respondent from the State Social Insurance Agency of Latvia suggested involving the ELA in the process of identifying the counterparts in those Member States with which it would like to sign similar cooperation agreements. Furthermore, the Bulgarian respondent emphasised the potential for the ELA to support the logistics of joint meetings with Germany. Similarly, during semi-structured interviews, the respondent from Poland suggested that the ELA could assist in concluding an agreement with Germany by identifying the appropriate German authority with which to engage. Such logistical and administrative support would alleviate the burden on national authorities, allowing them to focus more on the substantive aspects of their cooperation.

Overall, the study findings revealed that the ELA can provide crucial material support in **enhancing the implementation of bilateral and multilateral cooperation agreements** between Member States.

Several survey replies (BG, IE, HU, NL, SK) directly or indirectly pointed to the added value of **conducting concerted and joint inspections under the auspices of the ELA**, including in terms of realising the objectives of the cooperation agreements. For instance, the reply from the Slovakian respondent mentioned that, recently, representatives of the labour inspectorate from Košice had participated in the first joint international inspection with colleagues from Hungary in the town of Miškovec. The joint inspection at two large construction sites was supported by the ELA and focused on violations of employment rules, remuneration, valid posting rules and the detection of false documents in the construction sector. The inspection was carried out by Hungarian labour inspectors (with the support of the national police), and with the participation of four observers from Slovakia. According to the Slovak reply, this experience was deemed extremely positive. The respondent from Bulgaria further emphasised that the ELA's logistical and organisational support to carry out joint inspections on complicated cases is vital in facilitating enforcement and ensuring the more effective application of labour law.

This was also confirmed during the semi-structured interviews, in which interviewees from several Member States (BE, CZ, EE, FR, PL, PT) made specific mention of the support offered by the ELA in the framework of concerted and joint inspections. For instance, the respondent from Czechia stressed that the ELA is a crucial partner in the effective organisation of concerted and joint inspections in the framework of the cooperation agreement. The interviewee from Poland also noted the potential for the ELA's support to organise a joint inspection under the framework of their agreement. The respondent from Czechia also noted repeatedly that the ELA was a gamechanger when negotiating the agreement with Poland. It was mentioned that the inclusion of concerted and joint inspections as a cooperation measure is partly due to the fact that the ELA took up an active role in this area through providing detailed guidance and funding.

Some survey replies (e.g. BG, PT) also alluded to further **continuing the ELA's involvement in information and awareness-raising campaigns** for posted workers and extending it to information campaigns and materials on rights and obligations during an inspection, aimed not only at workers but also at employers and other stakeholders.

The interviewee from Czechia pointed to the benefits of **staff exchange programmes facilitated by the ELA**. For instance, mention was made of how Czechia was able to send inspectors to Austria through this programme. In the Czech interviewee's opinion, the inspectorate had been very enthusiastic about this possibility, in particular considering the funding and interpretation tools provided by the ELA. Survey replies from two Member States (HU, SK) also emphasised the added value the ELA can offer in terms of staff exchanges.

The interviewee from Czechia stressed repeatedly that the value and quality of the seminars and events that the ELA is providing were very beneficial. This was also emphasised by the interviewee from Estonia, who valued the ELA's role in **fostering professional contacts** between inspectorates, which has a positive influence on cooperation between enforcement authorities. In other words, there should be continuous efforts to promote the building, maintenance and **enhancement of a community of practitioners composed of national authorities and enforcement officers from different Member States**.

From the survey and the semi-structured interviews, it was not always clear whether these actions had been provided for and were planned under the existing bilateral agreements or whether these were organised on the ELA's initiative and in consultation with and/or upon request of the Member States concerned. What is clear is that it is part of the ELA's mandate to support such actions and to allocate (logistical and translation) resources for the activities envisaged, including training, staff exchanges and joint inspections.

The previous considerations presuppose that the existing bilateral and multilateral agreements that are implemented effectively between Member States, as well as their (multi)annual implementation plans, would be shared with the ELA, allowing the latter to design an **integrated overall implementation plan** covering all operational bilateral agreements. Such a plan with details on the planned actions (e.g. meetings, training, information campaigns, staff exchanges, joint inspections) relating to all bilateral agreements would help the ELA to plan and direct its available resources in accordance with the needs identified. The integrated plan could coexist with the regular multiannual planning of the ELA's activities and actions.

The study revealed that the national enforcement agencies see the need for bilateral and multilateral agreements to continue to exist in future as well, provided that they are complementary to the work and functioning of the ELA. This requires greater interconnectedness between the operational bilateral and multilateral agreements and the ELA's activities and more integrated planning of actions and activities and resource allocation.

Operational conclusion 1. The more extensive use of the ELA NLOs could be envisaged in order to facilitate the coordination of and provision of assistance in the negotiation, implementation and evaluation of bilateral cooperation agreements between Member States. Additionally, Member States could seek the technical and logistical support offered by the ELA to organise joint meetings and explore deepened bilateral relations.

Operational conclusion 2. Member States' activities under the bilateral agreements in the area of labour mobility could be further supported by collecting additional information on multiannual implementation plans and by means of the structured allocation of resources in support of them.

Create an up-to-date inventory of the existing cooperation agreements and of model templates for bilateral cooperation agreements. The creation of an online inventory or repository of the existing agreements between Member States and the development of templates or a model agreement for bilateral cooperation agreements could significantly enhance cross-border enforcement in the area of labour mobility. When creating such an inventory, attention could be paid to verifying whether some of the older agreements are still of relevance and/or operational, as there is some indication that some of them are actually no longer in use.

The creation of a centralised inventory was suggested in several survey responses, drawing attention to the potential benefits of a centralised database and standardised agreement templates (see Section 6.2.2). Such

a centralised database could also include the relevant national legislation and collective agreements that have relevance for cross-border labour mobility. For instance, the survey reply from Bulgaria noted a potential role for the ELA in establishing a database with documents related to the regulatory framework of the Member States in the field of labour legislation and posting within the framework of the provision of services, especially in relation to collective agreements. The survey reply from Ireland indicated that the ELA could also play a role in the development of templates for cooperation agreements on subjects such as information exchange and data exchange.

- To maximise the utility of a centralised online repository, it could be ensured that the texts of the agreements are readily accessible and regularly updated when revisions are made. One could also consider providing translations of the agreements in different EU languages, making the information accessible to a wider user group.
- In terms of a potential ‘model agreement’, reference can be made to the elements laid out in Section 6.2.2 with regard to the action ‘Include key dimensions in view of the effective implementation of cooperation agreements’, as well as in the glossary on the relevant concepts developed by the ELA ⁽¹⁰⁵⁾. Such a model agreement could also be translated into several EU languages with support at the EU level.

Operational conclusion 3. An online database could be created containing the existing bilateral and multilateral cooperation agreements between Member States in the field of EU labour mobility, which should be updated regularly. The translation of the texts into different EU languages could also be considered.

Operational conclusion 4. A model bilateral or multilateral agreement could be developed for future use by the Member States when considering new agreements, albeit leaving space for sufficient customisation depending on the national context of the concluding Member States. The development of this model agreement could in part rely on the glossary of relevant concepts and terminology developed by the ELA.

Improve the understanding and usage of the IMI posting modules among all enforcement agencies in Member States. At the same time, the research findings show that many agreements deal with information exchange and direct bilateral contact between the enforcement agencies. A notable finding from the empirical analysis pertains to the effectiveness of information exchange via the IMI, and the interoperability of various existing databases. The analysis indicates that bilateral or multilateral agreements play a crucial role in addressing these challenges. Such agreements appear to mitigate in part the lengthy response times often encountered between requests and replies, potentially facilitated by informal contacts occurring parallel to the formal IMI process. Moreover, these agreements enhance the knowledge and preparedness of the parties involved regarding the functioning of their respective systems and databases. A pertinent example is the data exchange between Belgium and France, which, except for the communication of fines, is conducted through SIPSI rather than the IMI.

In 2021, the ELA, in close cooperation with the European Commission, established the IMI-PROVE programme to reinforce cooperation and mutual assistance between Member States and to enhance the effective use of the IMI modules for the posting of workers and road transport ⁽¹⁰⁶⁾. Among other activities, the IMI-PROVE programme promotes networking and exchange between the national officials using the IMI on a daily basis, thus also helping to identify bilateral or multilateral challenges, as well as joint solutions, through exchange of information. The ELA IMI-PROVE programme could be of further use as a platform to deepen specific cooperation between the competent national authorities, to enhance the interoperability potential and to inspire other cooperation projects.

An alternative approach could involve adopting a model similar to Article 12a of Directive (EU) 2021/514 (known as DAC7), which established a common legal framework obliging Member States to facilitate joint audits conducted by other Member States. Specifically designed for tax authorities, this model could be adapted into an EU legislative instrument applicable to labour inspectorates, social security authorities and road transport agencies. By establishing a standardised legal basis for joint inspections and investigations, this instrument

⁽¹⁰⁵⁾ <https://www.ela.europa.eu/en/undeclared-work/glossary>.

⁽¹⁰⁶⁾ <https://www.ela.europa.eu/en/activities/cooperation-between-member-states>.

could potentially obviate some of the need for bilateral or multilateral agreements between Member States. Such a directive could be highly beneficial in defending the common interests of Member States, ensuring a more streamlined and cohesive approach to cross-border regulatory enforcement.

Operational conclusion 5. Activities at the EU level to improve the understanding and usage of the IMI posting modules among all enforcement agencies of Member States should be continued, including through the possibility of reporting on the exchanges taking place through the IMI.

6.2.2. Actions at the national level

Enhance the commitment of a wider range of enforcement authorities. In order to maximise the impact of cooperation agreements between Member States, the involvement of a broader range of enforcement authorities could be further explored. By including tax authorities, social security institutions and social partners, a more comprehensive and effective approach to the enforcement of EU labour mobility rules could be ensured.

This is evidenced by some survey replies (e.g. BG, LT) that alluded to further support from the ELA to enhance the commitment of a wider range of stakeholders (social partners, social security institutions, etc.) to exchange of information on working conditions, especially in Member States where the minimum working conditions are established by collective agreements and there are some differences in the national structures and the powers of the law enforcement bodies. For instance, a respondent from Lithuania supported the idea of strengthening cooperation not only between labour inspectorates but also between them and social security institutions.

Furthermore, as part of the bilateral agreement concluded between Estonia and Finland (2014), the two Member States' enforcement authorities decided, in spite of the fact that they were already fully compliant with the provisions of Directive 2014/67/EU, to include on the basis of the agreement specific support activities targeting employers and workers. The enforcement authorities organised online information sessions in order to raise awareness among posted workers and employers, and allowing individual workers to ask the enforcement agencies questions directly. The online information sessions were organised during the mornings and promoted by the Estonian inspectorate. Many workers posted mainly to Finland attended these meetings, which were considered a unique opportunity to have access to a representative of an enforcement agency.

In addition, the further involvement of social partners is an interesting recommendation. Academic literature also suggests that enforcement authorities and social partners could leverage each other's strengths⁽¹⁰⁷⁾. Including social partners in the education and training exercises with enforcement authorities and involving social partners in the design, update and implementation of bilateral and multilateral agreements are among the ways in which this could be done.

Equally important is the involvement of tax authorities in the cross-border enforcement of labour mobility rules. Tax authorities play a crucial role in the detection and prevention of illegal employment and undeclared work, including in the detection of bogus self-employment. By collaborating closely with labour inspectorates, tax authorities can help identify discrepancies in reported incomes and actual earnings, thus uncovering potential cases of tax evasion and labour law violations. Their involvement ensures that enforcement measures are comprehensive and address all aspects of cross-border employment practices.

⁽¹⁰⁷⁾ Vitosha Research EOOD, Stefanov, R., Mineva, D. and Terziev, P. (2019), *Social partners and their key role in tackling undeclared work: 12 success stories*, European Platform Tackling Undeclared Work.

Operational conclusion 6. To enhance the effectiveness of bilateral cooperation agreements between Member States, the involvement of a broader range of enforcement authorities could be explored. This should include not only labour inspectorates but also tax authorities, social security institutions, enforcement authorities in charge of international road transport rules and social partners.

Operational conclusion 7. Targeted information actions aimed at reaching out to social partners on either side contribute to effective compliance in practice by employers and workers.

Include key dimensions in view of the effective implementation of cooperation agreements. Although the findings suggest that bilateral agreements between two or more Member States do not need to be particularly complex, it is clear that a higher level of detail and comprehensiveness of the agreements contributes to more effective implementation.

The *Practitioner's Toolkit* (Stefanov and Mineva, 2017b) discussed above (see also Chapter 3) contains a reference structure for bilateral agreements with a set of key dimensions and provisions that are considered important. The desk analysis, survey and semi-structured interviews undertaken for the present study pointed to a selection of these key dimensions and provisions that were considered essential in view of effective implementation.

This list of these critical dimensions and provisions for bilateral agreements is shorter than that included in the *Practitioner's Toolkit* and contains the following provisions: (1) the scope and objectives of the agreement need to be clearly defined; (2) the duration should ideally be fixed in time, allowing for possible termination or withdrawal; (3) contact points need to be clearly mentioned; (4) the enforcement agencies involved and their responsibilities with regard to the implementation should be clearly designated; (5) procedures for information exchange need to be established; (6) data protection rules need to be identified; (7) a conflict resolution mechanism should be established; and (8) a review or evaluation mechanism should be established.

List of provisions in bilateral agreements that are considered essential for effective implementation

The provisions include:

- (1) introduction
- (2) scope of the cooperation
- (3) areas and objectives covered
- (4) time limit / duration (specifying the procedure to terminate the agreement)
- (5) indication of responsibilities of single authorities dealing with the areas covered by the agreement
- (6) contact points for each party
- (7) use and disclosure of information / confidentiality / publicity
- (8) storage of information and statement on privacy policies
- (9) disputes and complaints
- (10) review/evaluation system
- (11) signatories
- (12) annexes.

When concluding bilateral agreements that consider all critical dimensions, the respective enforcement authorities would have a customised guiding framework that enabled them to easily qualify, evaluate, terminate or expand the scope of their cooperation. Potential challenges in the implementation of the agreements due to changes in the national organisational set-up, in political priorities or in the complexity of cross-border labour mobility rules would be easier to resolve because of established procedures for information exchange and cooperation and regular follow-up including review.

Operational conclusion 8. When preparing for the conclusion of new bilateral agreements, it is advisable to consider the list of critical provisions that contribute to more effective implementation.

The findings have suggested that the regular follow-up including review is ideally formalised through the establishment of well-organised monitoring structures or mechanisms (e.g. steering committee, joint commission).

In fact, some Member States, such as France and Portugal, have put in place a very unique cooperation mechanism (see Section 5.2.3.2), which has enabled them to deploy a significant number of cooperation activities. Their own dedicated human and financial resources are complemented by support from transnational networks such as Eurodétachement and the ELA.

A well-structured and regularised design of such monitoring structures has the great benefit of allowing the parties to go through all the important points of their collaboration without losing focus, and, overall, makes it possible to adjust and approve the annual work programmes when priorities have changed in order to keep the envisaged results realistic. In summary, fieldwork demonstrated that regular monitoring and evaluation meetings and the avoidance of automatic renewals have an essential role in the effective implementation of the concluded agreements, and in avoiding these agreements becoming dormant due to a lack of implementing activities.

The FR–PT example of the agenda of the annual meeting of the joint commission / steering committee

The agenda consists of:

- a summary of the main legislative developments on illegal employment and posting rules in the two Member States, or on other topics covered by the agreement;
- verification of the work done at the local level (if local proximity agents are appointed, verification of the work they are doing);
- discussion of how to overcome stalemates or bottlenecks that may exist in some investigations;
- deciding on next steps and approving a work programme for the following year;
- evaluation of the collaboration and discussion of ways to improve cooperation;
- clarification of uncertainties that may arise in the interpretation of the agreement or in the interpretation of national definitions (e.g. ‘employment relationship’ or elements to be inserted in the payroll).

Operational conclusion 9. Establish joint steering committees under the bilateral and multilateral agreements that are responsible for adopting and monitoring the annual work programmes and that meet at least once annually and use carefully prepared agendas.

Promote the importance of multiannual operational plans. One of the most the persistent issues encountered is the **lack of sufficient human and financial resources** for many countries during both the **negotiation** and **implementation** phases of the agreements studied. The literature identified that the intensity of cooperation differs from country to country and may depend on the capacities of a country's local enforcement agencies (Danaj et al., 2021). In other words, proper enforcement is only possible if there are sufficient financial and human resources (Jorens and De Wispelaere, 2019). Exemplifying this, some interviews revealed a notable positive impact on cooperation when these resource challenges are addressed, either partially or fully. A particularly illustrative example was provided by a representative of the Portuguese ACT, who noted that although resource constraints had been problematic in the past, recent improvements have significantly enhanced the effectiveness of cooperation with other Member States with whom agreements are in place. Furthermore, interviewees from Czechia, Estonia and France emphasised the substantial support provided by the ELA and Eurodétachement, particularly in terms of financial assistance.

Within that context, some bilateral agreements and memoranda were implemented using multiannual action plans or work programmes that were designed by the enforcement authorities. These action plans are useful tools because they allow the parties to the agreement to adapt their priorities when different needs arise and adjust the implementation of the plan accordingly. Multiannual operational action plans or work programmes that ensure the adequate allocation of human and financial resources are considered by stakeholders as a necessary tool to ensure the effective implementation of bilateral and multilateral agreements concerning labour mobility.

Example of a multiannual action plan for a bilateral agreement

As part of the bilateral agreement concluded between Germany and Bulgaria, the enforcement authorities developed a work programme for 2023–2024, which was approved in 2023. The plan specified 10 actions that the two states set out to pursue, corresponding to different priorities listed in the document itself (e.g. cooperation in the field of social protection; cooperation to improve access to information for workers; and cooperation to strengthen the social dialogue and the promotion of trade union affiliation and collective bargaining coverage).

Example of a multiannual action plan for a multilateral agreement

The action plan of the ES–FR–IT–PT multilateral agreement sets out in a very systematic way the goals for each year of implementation at both the bilateral and multilateral levels, and contains specific annual evaluation actions in order to adjust the actions when priorities change. Of the 17 priorities defined in the work programme implemented by ES–FR–IT–PT, 90 % were successfully achieved.

Operational conclusion 10. Multiannual operational action plans or work programmes, designed by the enforcement authorities responsible for implementing the bilateral and multilateral agreements and allocating the necessary budgetary and human resources, are indispensable and a guarantee of more effective implementation. Consideration could be given to sharing these multiannual work programmes with the ELA in order to improve the interconnectedness between the work programmes concluded under the agreements and the ELA's own multiannual planning and work programmes, thus optimising the available resources.

6.3. Conclusion

With a view to identifying possible complementarities between existing agreements and the activities of the ELA, in particular in the area of posting of workers, this analytical report was intended to analyse the conclusion and implementation of bilateral and multilateral agreements in the area of labour mobility, with a specific focus on those agreements related to the posting of workers.

The high-level goals of the report were:

- to provide an overview of the existing agreements that are still in force, including an overview of provisions that are common to different agreements, which was to result in a compendium of agreements, including a broad description of these in English;
- to identify the elements of the agreements that have had the strongest impact in practice;
- to identify the practices by the contracting Member States or arrangements set out under the agreements themselves that have been conducive to the successful implementation of the agreements and the achievement of the intended results;
- to show the complementarities of these agreements with the existing legal framework and with existing tools related to EU labour mobility, for instance the IMI;
- to discuss how the ELA can support and complement the implementation of these agreements.

Answering these research questions, Chapter 6 summarised the main findings for each phase of the study (Section 6.1). It synthesised key insights and operational implications derived from the comprehensive analysis of bilateral and multilateral cooperation agreements in the area of EU labour mobility. This structured approach ensured a rigorous and methodical examination of the legal, empirical and operational dimensions of labour mobility agreements within the EU, offering valuable insights for policymakers and stakeholders involved in shaping labour mobility policies and practices. Integrating the results from both research phases allowed the formulation of operational conclusions, from the perspectives of both the EU and national levels (Section 6.2). The table below provides a summary of the operational conclusions formulated in the final chapter of this report.

Summary of the operational conclusions	
(1)	Actions at the EU level
(a)	Play a coordinating and facilitating role during the preparation, implementation and review of the cooperation agreements.
	<p>Operational conclusion 1. More extensive use of the ELA national liaison officers could be envisaged in order to facilitate the coordination of and provision of assistance in the negotiation, implementation and evaluation of bilateral cooperation agreements between Member States. In addition, Member States could seek the technical and logistical support offered by the ELA to organise joint meetings and explore deepened bilateral relations.</p> <p>Operational conclusion 2. Member States' activities under the bilateral agreements in the area of labour mobility could be further supported by collecting additional information on multiannual implementation plans and by means of the structured allocation of resources in support of them.</p>
(b)	Create an up-to-date inventory of the existing cooperation agreements and of model templates for bilateral cooperation agreements.
	<p>Operational conclusion 3. An online database could be created containing the existing bilateral and multilateral cooperation agreements between Member States in the field of EU labour mobility, which should be updated regularly. The translation of the texts into different EU languages could also be considered.</p> <p>Operational conclusion 4. A model bilateral or multilateral agreement could be developed for future use by the Member States when considering new agreements, albeit leaving space for sufficient customisation depending on the national context of the concluding Member States. The development of this model agreement could in part rely on the glossary of relevant concepts and terminology developed by the ELA.</p>
(c)	Improve the understanding and usage of the IMI posting modules among all enforcement agencies in Member States.
	<p>Operational conclusion 5. Activities at the EU level to improve the understanding and usage of the IMI posting modules among all enforcement agencies of Member States should be continued, including through the possibility of reporting on the exchanges taking place through the IMI.</p>
(2)	Actions at the national level
(a)	Enhance the commitment of a wider range of enforcement authorities.
	<p>Operational conclusion 6. To enhance the effectiveness of bilateral cooperation agreements between Member States, the involvement of a broader range of enforcement authorities could be explored. This should include not only labour inspectorates but also tax authorities, social security institutions, enforcement authorities in charge of international road transport rules and social partners.</p> <p>Operational conclusion 7. Targeted information actions aimed at reaching out to social partners on either side contribute to effective compliance in practice by employers and workers.</p>
(b)	Include key dimensions in view of the effective implementation of cooperation agreements.
	<p>Operational conclusion 8. When preparing for the conclusion of new bilateral agreements, it is advisable to consider the list of critical provisions that contribute to more effective implementation.</p> <p>Operational conclusion 9. Establish joint steering committees under the bilateral and multilateral agreements that are responsible for adopting and monitoring the annual work programmes and that meet at least once annually and use carefully prepared agendas.</p>
(c)	Promote the importance of multiannual operational plans.
	<p>Operational conclusion 10. Multiannual operational action plans or work programmes, designed by the enforcement authorities responsible for implementing the bilateral and multilateral agreements and allocating the necessary budgetary and human resources, are indispensable and a guarantee of more effective implementation. Consideration could be given to sharing these multiannual work programmes with the ELA in order to improve the interconnectedness between the work programmes concluded under the agreements and the ELA's own multiannual planning and work programmes, thus optimising the available resources.</p>

Annex: methodology of the survey and semi-structured interviews

As a result of the textual analysis of the 60 agreements analysed (see Chapter 4) and the analysis of the available literature on this point (see in particular Chapter 3), the researchers developed two questionnaires, one in the form of a survey and the other in the form of a guidance note for the semi-structured interviews. The two questionnaires had the same goal, namely to collect more information on the main factors facilitating or hindering the conclusion of an agreement and on the actual level of implementation of all the agreements (in the case of the survey) and of the 10 selected agreements (in the case of the semi-structured interviews) (see Table 12).

First, to further enrich the information obtained from desk research and the semi-structured interviews (see below), a **survey** was sent out to the NLOs, with the support of the ELA team overseeing the project. The main goal of the survey was to obtain more insight into the policies, practices, programmes and actions that result from the cooperation agreements concluded by the respective countries. The survey was also meant to identify the success factors and challenges underpinning the agreements, which are conducive to the effective implementation and achievement of the intended results.

The design of the survey questionnaire was modular, and it was structured in five sections.

- (1) The first section asked respondents to list (bilateral and/or multilateral cooperation) agreements in the field of labour mobility (specifically posting) that their country had concluded or was envisaging for the future.
- (2) The second section asked how these agreements had been implemented in practice, requesting specific examples of cooperation for each agreement.
- (3) The third section asked respondents to clarify which factors facilitated the conclusion of the agreements (e.g. previous interinstitutional cooperation, interpersonal contacts, similar national regulations, neighbouring countries).
- (4) The fourth section asked about the challenges Member States had encountered when implementing the agreements.
- (5) Finally, Member States were asked how they thought the ELA could actively support and complement the negotiation and implementation of future – and the implementation of existing – bilateral and multilateral agreements in the area of labour mobility.

Second, an initial selection of 10 cooperation agreements was identified for additional applied research by means of a written questionnaire and **semi-structured interviews**. These agreements were the following: BE–FR (2003), BE–LU (2008), BE–PL (2007), BE–PT (2009), BE–RO (2013), CZ–PL (2023), EE–FI (2014), EE–LT–LV (2018), ES–FR–IT–PT (2022) and FR–PT (2017). The selection was predominantly based on six criteria.

- (1) **The date of adoption.** A balance needed to be assured between agreements that were old, recent or under negotiation. The selected agreements were concluded between 2003 (BE–FR) and 2023 (CZ–PL). This allowed the study team to understand whether the adoption of agreements was linked to, and influenced by, external events (i.e. the adoption of new legislative instruments at the national or EU level).
- (2) **The institutional level.** The selected agreements were concluded by different authorities (ministries, regional authorities, labour inspectorates). This assisted in pinpointing whether there were variable success and/or challenge factors depending on the main institutional actors involved.

- (3) **The type of agreement.** The study team tried to include three types of agreements within the 10 agreements considered: (1) multilateral agreements (EE–LT–LV, ES–FR–IT–PT); (2) a memorandum of understanding (e.g. CZ–PL); and (3) bilateral agreements (the remaining seven).
- (4) **The scope of cooperation.** The research team included among the 10 agreements those that seemed to be possible good practice cases, while the interviews then revealed which agreements could actually be considered such, and which did not have that impact in reality.
- (5) **Sending and receiving Member States.** The selection included agreements that involve Member States that are considered major net sending countries (CZ, EE, PL, PT, RO) or receiving countries (BE, FR, LU, FI) in terms of posting.
- (6) **The level of detail.** The selection also included a mix of generally formulated and short agreements (e.g. BE–FR, BE–LU), as opposed to more detailed agreements (e.g. EE–FI, FR–PT).

With the support offered by the NLOs, the research team approached one (or more) stakeholders directly involved in the negotiation process and/or implementation process of each of the selected agreements. Answers were collected through a written questionnaire and an online semi-structured interview.

The design of the written questionnaire was modular, and it was structured in five sections.

- (1) The first section asked respondents to list (bilateral and/or multilateral cooperation) agreements in the field of labour mobility (specifically posting) that their country had concluded or was envisaging for the future.
- (2) The second section asked how these agreements had been implemented in practice, requesting specific examples of cooperation for each agreement.
- (3) The third section asked respondents to clarify which factors facilitated the conclusion of the agreements (e.g. previous interinstitutional cooperation, interpersonal contacts, similar national regulations, neighbouring countries).
- (4) The fourth section asked about the challenges Member States had encountered when implementing the agreements.
- (5) Finally, Member States were asked how they thought the ELA could actively support and complement the negotiation and implementation of future – and the implementation of existing – bilateral and multilateral agreements in the area of labour mobility.

Table 12. Bilateral and multilateral agreements selected for in-depth analysis

Bilateral agreements (8)		Multilateral agreements (2)
Both parties interviewed (5)	Only one party interviewed (3)	
BE–FR (2003) ⁽¹⁰⁸⁾ , BE–PL (2007) ⁽¹⁰⁹⁾ , BE–PT (2009) ⁽¹¹⁰⁾ , CZ–PL (2023) ⁽¹¹¹⁾ , FR–PT (2017) ⁽¹¹²⁾	BE–LU (2008) ⁽¹¹³⁾ , BE–RO (2013) ⁽¹¹⁴⁾ , EE–FI (2014) ⁽¹¹⁵⁾	EE–LT–LV (2018) ⁽¹¹⁶⁾ , ES–FR–IT–PT (2022)

⁽¹⁰⁸⁾ Administrative cooperation agreement to fight illegal employment, 3 May 2003.

⁽¹⁰⁹⁾ Agreement on the control of social laws and the control of welfare, both of the Federal Public Service – Employment, Work and Social Dialogue and the Social Inspectorate of the Federal Public Service – Social Security in the Kingdom of Belgium and the National Labour Inspectorate in the Republic of Poland, 11 October 2007.

⁽¹¹⁰⁾ Agreement on the monitoring of social laws and the monitoring of welfare, both of the Federal Public Service – Employment, Labour and Social Dialogue and the Authority for Working Conditions of Portugal, 7 August 2009.

⁽¹¹¹⁾ Memorandum focusing on cooperation and exchange of information in matters relating to work carried out in the territory of the two countries, 6 June 2023.

⁽¹¹²⁾ Agreement on administrative cooperation in relation to posting of workers and the prevention of undeclared work, 17 November 2017.

⁽¹¹³⁾ Agreement on the control of social laws and the control of well-being, both of the Federal Public Service – Employment, Work and Social Dialogue and the Social Inspectorate of the Federal Public Service – Social Security in the Kingdom of Belgium and the National Inspectorate of Work and Mines in Luxembourg, 8 July 2008.

⁽¹¹⁴⁾ Cooperation agreement in the field of labour and employment, 10 September 2013.

⁽¹¹⁵⁾ Agreement to ensure effective protection of employment, safe and healthy conditions of workers posted to work in the territories of the contracting parties, 3 December 2014.

⁽¹¹⁶⁾ [Agreement on trilateral cooperation and exchange of information in the field of occupational safety and health and posted workers](#), 8 May 2018.

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