



European Platform
tackling undeclared work



Dialogues for peer learning and cross-border action

**Approaches and
instruments to support
and enforce compliance
in temporary work
agencies**



The author would like to thank all of the participants for their contributions during the peer learning dialogue.

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1.0 Introduction

This report documents the outcomes of the Peer Learning Dialogue (PLD) on *Approaches and instruments to support and enforce compliance in temporary work agencies (TWAs)*. The PLD is an initiative of the European Labour Authority's (ELA) [Platform tackling undeclared work](#) ('the Platform'),¹ which provides an opportunity to Platform representatives to explore an issue in greater depth with a small group of peers and/or to explore existing and new approaches for tackling undeclared work. This PLD topic was selected as a result of the discussion held in the Forum on posting of workers on 23 and 24 October 2023, where national experts highlighted a need for a discussion on TWA legislation in the framework of posting of workers.

The **problem addressed** in the PLD **was the use of TWAs (both in national and cross-border situations) for the purposes of undeclared work and in the framework of posting of workers.** This excludes other illegal, criminal or illegitimate activities that may be undertaken by fraudulent TWAs (e.g. human trafficking, fake vacancies, abuse of health and safety rules, agencies overcharging fees for employers and workers).² However, it should be noted that the distinction is easier said than done, as illicit practices often overlap and/or go hand in hand.

Participants from nine countries, namely Bulgaria, France, Denmark, Lithuania, Malta, Netherlands, Poland, Portugal and Romania, predominantly representing labour enforcement authorities,³ exchanged information and discussed this topic during three PLD meetings. Furthermore, social partners representing workers and employers' interests delivered online presentations during one of the PLD meetings (FNV Flex Netherlands and the World Employment Confederation). They shared their perspectives and experiences with regard to the regulation and enforcement of temporary work agencies with the PLD participant as input to the discussions.

- ▶ **1st and 2nd meetings: Participants exchanged information and discussed issues** regarding their national frameworks on regulating and monitoring TWAs, the main enforcement challenges and circumvention of TWA legislation in both national and cross-border situations. Furthermore, participants shared practices and approaches to prevent, detect and enforce TWA's compliance.
- ▶ **3rd meeting: Participants discussed lessons learned and actions undertaken** to improve approaches and instruments to support and enforce compliance in temporary work agencies **and jointly formulated suggestions for actions that could be implemented by national enforcement authorities and by the ELA.**

The first two meetings concluded with a set of actions which participants took forward and tested or explored in their home countries in the period preceding the third meeting. The experiences and lessons learned from these actions were then reported and reflected upon at the third meeting. The outcomes of these actions and the discussions during the three meetings on the experiences with the tested actions have been included in this report.

¹ The European Platform tackling undeclared work is a working group that supports the activities of the European Labour Authority and the cooperation between national authorities' enforcement agencies in the fight against undeclared work in Member States and in cross-border situations in the EU,

² Taken from Inga Pavlovaite, *Tools and approaches to tackle fraudulent temporary agency work, prompting undeclared work* (2020) and Inga Pavlovaite, Karolina Jakubowska et al, *Tools and approaches to tackle fraudulent temporary agency work, prompting undeclared work*, UDW platform (2021).

³ The participant from France represented a social security enforcement authority.



The present report aims to summarise the key issues that have been discussed during the PLD meetings with a view to sharing these with Member States and ELA to contribute to mutual learning.

Section 2 provides background information and reports on what was shared and discussed by the PLD participants regarding **national regulations on Temporary Work Agencies (TWAs) in EU Member States**. Remarkable outcomes include that, some sending countries (BG, LT, PL, PT) have stricter TWA regulation in place than some receiving countries (DK, NL). Also, stricter measures are pending or were already introduced in some of the participating countries: Due to substantial issues with abuse related to the high number of third-country nationals among TWA workers, Malta introduced in 2024 a stringent licencing system, covering both TWAs and other labour intermediaries. In the Netherlands, a bill is pending aimed at re-introducing an admission system for TWAs. From 2025 onwards, Lithuania has stricter legislation for re-establishing TWAs.

Section 3 provides background information and reports on what was shared and discussed by the PLD participants regarding **main and specific challenges faced by enforcement authorities** in monitoring and enforcing regulations on temporary agency work, particularly in cross-border context. Key challenges that were mentioned include difficulties in interinstitutional cooperation, tackling non-payment and underpayment, language barriers, lack of information and awareness and/or fear of retaliation among temporary agency workers. Strategies by TWAs and/or user companies to circumvent TWA regulations were also deemed a key issue, with letterbox companies and complex employment structures posing challenges. While cooperation is acknowledged by all PLD participants as key to identifying responsible parties, it was also seen as challenging both in national and cross-border context. Identifying the real employer was reported as a primary issue both by participants representing host and sending countries, with delays in response to IMI-requests.

Section 4 reports on what was shared and discussed during the PLD regarding various **approaches and instruments** used by the labour inspectorates **to prevent and tackle temporary agency work (TWA) non-compliance**. These include more traditional monitoring and inspection of TWAs, but also the influencing of behaviour through information campaigns (RO), awareness-raising measures (LT, PT), and quality mark systems (MT, NL). In some countries, social partners play a crucial role in preventing or tackling TWA non-compliance. Next to ongoing efforts, several examples were shared of rather successful interinstitutional cooperation and information exchange. For instance, Denmark's WEA organizes regular meetings and joint inspections involving multiple authorities, and a safe e-communication tool to facilitate easy information exchange, based on input of keywords. Successful bilateral agreements with comprehensive inspections and joint inspections were reported by participants from France and Portugal.

Finally, in **section 5**, the report presents **the main reflections and suggestions for future actions** that could be considered by Member States and by ELA.



2.0 Regulation of temporary work agencies

This section provides an **introduction into the topic of the PLD** and covers **aspects of national regulations** on TWAs, that have been discussed during the PLD, such as the key features of their regulatory model for TWAs, role of social partners in the regulatory framework, the requirements for setup and dismantling TWAs, worker profiles and key economic sectors.

2.1 Background information

A **temporary work agency (TWA)** is a **labour intermediary** which is defined in Article 3 of Directive 2008/104/EC as ‘any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction’.⁴ This means that the **TWA acts as the employer of the agency worker** and that the TWA has a commercial contractual relationship with the user undertaking. The user undertaking is the entity where the temporary agency worker is put to work under its supervision and direction. Temporary agency work refers in this context to work arising out of the **triangular employment relationship** between the temporary work agency, the agency worker and the user undertaking.

As an **intermediary between supply and demand for labour**, TWAs help user undertakings to respond more flexibly to emerging economic and labour market needs and temporary agency work may serve as a ‘stepping stone’ for workers to gain stable and decent employment. Nowadays, temporary agency work is an integral part of European labour markets, representing 2.3% of total employment in the EU.⁵ At the same time, the **share of temporary agency work in national labour markets varies**. Among the countries participating in the PLD, the share is relatively high in the Netherlands (3.2%) and France (2,7%) and rather low in Bulgaria (0,3%) and Romania (0.3%).⁶ According to the World Employment Confederation (WEC), who represent the interests of TWAs and other private employment services,⁷ 88% of (worldwide) user undertakings plan to increase their use of agency workers in response to market dynamics. In that regard, around 80% of them state that their organisation is working to extend the protection of worker well-being to agency and contract workers.

In the **national context**, agency workers are hired by a TWA established in a Member State and placed in a user undertaking in that same Member State. However, in the last two decades, TWAs have also played a significant role in the **cross-border context**, addressing the demand for labour across the internal market of the EU, particularly by posting temporary agency workers under the framework of the freedom to provide cross-border services.

Hence, different configurations of **cross-border temporary agency work** exist in practice. From a legal point of view, which is further elaborated below, three (partly interrelated) arrangements can be distinguished: Workers can be recruited in a sending Member State and employed by a TWA established in the same host Member State as the user undertaking (1). Alternatively, workers can be posted to a user undertaking in the host Member State

⁴ See Art. 3 para 1b Directive 2008/104/EC of 19 November 2008 on temporary agency work. See also [the Platform's glossary](#) of the European Platform tackling undeclared work [The European Platform](#).

⁵ Up from 1.7% in 2010, peaking at 2.6% in 2020. Eurostat (2025), Temporary employment agency workers by sex, age and NACE Rev. 2 activity (last update 14 April 2025). https://ec.europa.eu/eurostat/databrowser/view/lfsa_goe_4a6r2_custom_16479595/default/line?lang=en.

⁶ See WEC Economic Report 2025, p. 15, showing agency work penetration rate (2023 data) in all countries participating in the PLD except Malta. WEC In-house estimations and calculations based on WEC Members, Eurostat, ILO. Penetration rate is the ratio of full-time equivalent number of agency workers to all working population of 15+ years old (ILO). <https://wecglobal.org/uploads/2025/02/WEC-Economic-Report-2025.pdf>.

⁷ WEC recently launched a campaign titled [The Work We Want](#), which surveyed 715 senior executives from around the world, including 680 from Forbes Global 2000 companies and 35 from public sector organisations on the topics of ‘Agile talent in the age of AI’, ‘The missing workforce’ and ‘The work life we want’.



by a TWA established in the sending country (2). Sometimes, the posted agency worker may even be requested to perform work in a third (different) Member State (so-called 'chain posting') (3).⁸ Notably, apart from to being posted in the context of transnational temporary agency work, workers may also be posted to carry out service contracts in the context of transnational subcontracting or in the context of transnational intra-company transfers.⁹

While Intra-EU labour mobility can be a solution for the labour and skill shortages in certain sectors and regions, the use of temporary cross-border intra-EU labour mobility may bring unwanted effects. In practice, in some labour-intensive and price-competitive sectors in the EU, cross-border activities of TWAs and other labour intermediaries have become strongly **associated with mobile workers' abuse and cost-reduction practices**. As mentioned above, **in the context of posting of workers, TWAs play an increasingly important role**. While they represent an important added value for user undertakings, it is challenging to verify the legitimacy of their operations. For instance, TWAs may be involved in so-called 'posting supply chains',¹⁰ within which the different types of posting can sometimes be difficult to tell apart. In the framework of the [ELA Forum on posting of workers](#), discussions between experts from national administrations on the issues posed by TWAs already took place. This PLD allowed to deepen some of these discussions, and its results may be informative for further activities with the Forum on posting of workers and [ELA's Posting 360 programme](#).¹¹

One of the **factors enabling the abuse and circumvention of rules is the highly complex regulatory situation**.¹² The arrangements for cross-border temporary agency work should be in compliance not only with national regulation, based on the **Temporary Agency Work Directive** in the receiving Member State, but also with national implementation frameworks of the **(revised) Posting of Workers (Enforcement) Directives** in the receiving Member State.¹³ Notably, the aforementioned Directives apply in the field of labour law. For social security¹⁴ and tax law, other national and cross-border (coordination) regulations apply. The relationships between all these **rules from different legal areas and varying national legal systems are highly complex and opaque**, in particular in relation to issues of circumvention and enforcement.

The Temporary Agency Work Directive addresses the justifications to restrict the use of temporary agency work with a review obligation for Member States. Article 4(1) of the Directive provides an indicative, non-exhaustive list of grounds that may justify prohibitions and restrictions. According to this provision, **prohibitions or restrictions**

⁸ Mijke Houwerzijl (2024). The working conditions of cross-border temporary agency workers on paper and in reality. *European Labour Law Journal*, 15(1), 50-67.

⁹ All three types of posting are covered by Article 1(3) of Directive 96/71/EC concerning the posting of workers in the framework of the provision of service, as amended by Directive 2018/957. Pursuant to Article 1(3) there must be a link to a cross-border service provision that is temporary in nature. As explained in a practical guide on posting, issued by the European Commission, workers who are sent temporarily to work in another Member State but do not provide services there, are not posted workers in the meaning of Directives 96/71 and 2018/957. See Practical Guide on Posting, 2019, p. 10 (answer to question 2.4). Such workers may be seconded to another Member State within the framework of a project on behalf of the worker's own employer. This could include, for example, the activities of film crews, or employees who are sent abroad on business trips, or to attend seminars, or to perform harvesting activities. As a result, instead of coming within the scope of the Posting of Workers directives, this group of seconded workers will be covered by Article 45 TFEU in interaction with Article 8 (and 9) of the (Rome I) Regulation (EU) 2008/593.

¹⁰ In a recent ELA-report, it was observed that "mapping of the types and profiles of the labour intermediaries involved in the *posting supply chain* (...) are scarce." See European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg, p. 12. During the fieldwork for this study, a wide range of labour market intermediaries (LMIs) involved in the recruitment and posting of TCN workers into and across the EU was identified, including informal brokers, either individual acquaintances or family members or organised entities, private actors such as recruitment agencies, placement agencies, TWAs and companies, and public employment services where required by national law (see p. 47). For examples of supply chain configurations in posting, often involving TWAs or other LMIs, see p. 50 – 52.

¹¹ Posting 360 is a Mutual Learning and Understanding Programme for national experts in labour law and social security on the topic of posting of workers, organised by ELA and the European Commission. The Forum is bi annual meeting to exchange on enforcement and policy issue in the area.

¹² See the European Commission's Study supporting the Monitoring of the Posting of Workers Directive, Brussels 2024, in particular section 6.1 (Case study on the role of temporary work agencies and labour market intermediaries in temporary cross-border mobility: key legal and enforcement challenges), p. 127-143 and p. 248-250 (section 8.4).

¹³ Directive 2018/957/EU of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services; Directive 2014/67/EU.

¹⁴ Regulations (EU) 883/04 and 987/09, extended by Regulation (EU) 1231/2010 to third-country nationals legally resident in the EU and in a cross-border situation.



on the use of TWAs shall be justified only on the grounds of general interest related in particular to the protection of temporary agency workers; the requirements of health and safety at work; the need to ensure that the labour market functions properly, and the need to ensure that abuse is prevented.¹⁵ In this respect, the Directive determines that national requirements in relation to **registration, licensing, certification, financial guarantees or monitoring of TWAs** remain outside the scope of the review obligation.

Although the Temporary Agency Work Directive prescribes in its Article 5(1) **equal treatment** with workers directly employed by the user undertaking, this is limited to agency workers' basic working conditions. These **basic working conditions** refer to workers' working and employment conditions on working time, leave entitlements and pay, which are usually established in a Member State's legislation or collective agreements. While the Court of Justice of the EU (CJEU) tends to broadly interpret the term 'working conditions',¹⁶ Member States are free to interpret what constitutes 'pay'. Moreover, **several derogations are possible**. According to Article 5(3), Member States may exempt temporary agency workers who have a permanent contract of employment with a TWA and continue to receive pay between assignments from equal pay conditions. If a Member State has incorporated this option in its national legal framework,¹⁷ the **social partners may introduce derogations in collective agreements** but must respect the 'overall protection' of temporary agency workers regarding working and employment conditions. The CJEU recently clarified the vague concept of 'overall protection',¹⁸ ruling that **derogations which are detrimental to temporary agency workers' overall level of protection are not allowed**.

With regard to the **cross-border posting of agency workers**, Article 3(1b) of the (revised) **Posting of Workers Directive** stipulates that TWAs must guarantee posted workers the terms and conditions of employment applicable to temporary agency workers hired by TWAs established in the Member State where the work is carried out, pursuant to Article 5 of the Directive on temporary agency work. Contrary to other types of posting of workers,¹⁹ this implies that the guaranteed terms and conditions of employment for posted temporary agency workers are not limited to those specified in law or in universally applicable collective agreements. If a collective agreement exists at the level of the user undertaking that must be applied to domestic temporary agency workers, it must also be applied to posted agency workers. Moreover, Member States are also allowed, if they wish, to guarantee temporary agency workers other terms and conditions that apply to temporary agency workers in the Member State where the work is carried out, in addition to the terms and conditions of employment referred to in the Temporary Agency Work Directive.

In principle, the same rules apply in cases of so-called **chain posting** (if allowed); for example, if a TWA established in *Member State A* hires out a worker to a user undertaking in *Member State B* and one month later, the user undertaking posts the same worker to *Member State C* in the context of a contract of services. In such a case, the authorities of *Member State C* must consider that it is the TWA established in *Member State A* that has made the posting. The TWA is responsible for complying with the right terms and conditions of employment, and, if applicable, also for making the declaration prior to posting. For the TWA to be able to comply with the above-mentioned obligations, the user undertaking must inform the TWA in due time before the posted temporary agency worker starts carrying out tasks in another Member State. In such a case, the worker is entitled to the more

¹⁵ As confirmed in COM(2014) 176 final, p. 9, the review 'should cover any measures, for instance, measures laid down by legislation, regulations or administrative provisions, applied in Member States and which aim to, or have the effect of, imposing limitations on temporary agency work'.

¹⁶ Case C-681/18, *KG*, EU:C:2020:823; Case C-426/20 *Luso Temp*, ECLI:EU:C:2022:373.

¹⁷ According to the European Commission's report on the application of the Temporary Agency Work Directive (COM(2014) 176 final), p. 7, ten years ago: 'Ten Member States (Austria, Bulgaria, Denmark, Finland, Germany, Hungary, Ireland, Italy, the Netherlands and Sweden) have adopted provisions allowing collective labour agreements deviating from equal treatment of agency workers. Austria, Ireland and Sweden refer to the need for these collective agreements to be appropriately balanced to ensure that they do not prejudice the overall protection of temporary agency workers.'

¹⁸ Case C-311/21, *TimePartner Personalmanagement*, EU:C:2022:983, paras 49-50.

¹⁹ Namely in the context of transnational subcontracting or transnational intra-company transfers, as stipulated in Article 1(3) of the PWD. See the explanation in footnote 9 above.



favourable terms and conditions of employment of the two: either the terms and conditions of employment applicable in the user undertaking in *Member State B*; or the terms and conditions of employment applicable in *Member State C*.²⁰

2.2 Differing regulatory approaches regarding TWAs

The regulatory framework is a key factor concerning the employment conditions of agency workers and the possibilities for growth (or not) of the TWA sector in proportion to the total employment in a Member State. As observed in the European Commission's report on the application of the Temporary Agency Work Directive: "In some Member States, a national legal framework for temporary agency work was adopted in the 1960s (Netherlands) or 1970s (France, Germany, United Kingdom). In a number of others, it has been regulated much more recently, in some cases only in the context of the transposition of the Directive.(...) All Member States have made specific choices in terms of employment policy, for instance, by favouring labour market flexibility to variable degrees. Such choices have an influence on the role and place of temporary agency work in their respective labour markets."²¹ In legislation and/or in collective agreements, registration, licensing, record keeping and reporting requirements are used to regulate the use of temporary agency workers, detailing e.g. the type of work permitted, the maximum length of the assignment, and the reasons to employ temporary agency workers. The World Employment Confederation (WEC), representing the interests of the private employment services sector, closely monitors the evolution of regulatory frameworks for temporary agency work and provides an annual overview through its Regulatory Report.²²

Despite the enactment of Directive 2008/104 on temporary agency work, the **regulatory models in EU Member States still differ widely**, ranging from traditionally protective systems that promote licensing and/or limited reasons for the use of temporary agency work and implement stringent sanctions, to rather lenient approaches that treat temporary agency work as a common form of flexible employment.²³ The exchanges during the PLD confirmed the variety of regulatory models. In all participating countries in the PLD, the **equal treatment rights** regarding pay and other working conditions with the employees of the user company is part of the regulatory model.²⁴ Also, various other aspects of the employment relationship of temporary agency workers are regulated, such as on the (maximum) duration of their assignments and on successive renewals. These rights and protections against abuse are also extended to posted temporary agency workers.

Noteworthy, especially from the perspective of cross-border use of temporary agency workers, some of the mainly **receiving Member States** represented by the participants in the PLD, have a rather **lenient regulatory model**

²⁰ This paragraph draws on European Commission (2019, *Practical Guide on Posting*, Luxembourg: Publications Office of the European Union, p 14-15

²¹ COM(2014) 176 final, p. 10.

²² See: <https://wecglobal.org/news-post/staffing-sector-expects-overall-stable-regulatory-situation-in-2024/>

²³ See e.g. Luca Ratti, 'Agency Work and the Ideal of Dual Employership: A Comparative Perspective' (2009) 30 *Comparative Labor Law & Policy Journal*, at 835.

²⁴ In *Malta*, Temporary Agency Workers Regulations (S.L. 452.133), into force from 1st January, 2025 onwards, apply to all temporary agency workers, regardless of the nature of their employment contract (fixed term, indefinite, or part time). In line with the Temporary agency work directive, these new rules confirm that (i) temporary agency workers must receive the same basic working and employment conditions as employees directly recruited by the user undertaking for the same role; (ii) Workers are entitled to access the same facilities and amenities provided to direct employees of the user undertaking (e.g., canteens, transport services, childcare facilities); (iii) Workers have the right to access information about permanent job opportunities within the user undertaking; (iiii) Temporary work agencies are prohibited from charging workers any fees for placement or employment. In relation to the new rules, the equal pay for work of equal value principle was discussed for four situations: (1) No comparable employee at the user undertaking. Outcome: The principle of equal pay does not apply since there is no benchmark for comparison. (2) Comparable employee at the user undertaking. Outcome: The principle of equal pay applies. The temporary worker is entitled to the same pay and basic working conditions as the comparable employee.

(3) Comparable Employee Exists, but the temporary agency worker has better conditions. Outcome: Employees directly employed by the user undertaking cannot claim a breach of the principle of equal pay for equal work. Reason: The regulations aim to protect temporary workers, not create a comparative entitlement for permanent staff to demand parity. (4) Temporary workers at different user undertakings with different wages. Outcome: The principle of equal pay does not apply. Reason: Equal pay regulations apply within the same user undertaking and for comparable roles, not across different undertakings.



for **TWAs** (DK, NL), where there are only certain registration requirements.²⁵ Another mainly receiving Member State (FR) applies a **stricter approach**, where temporary agency work is only allowed to satisfy needs of the user company that are of a temporary nature. The operation of TWAs is subject to various authorisation, reporting and financial requirements. For instance, it is compulsory for TWAs to provide a declaration for each new contract which indicates that they fulfil all the requirements such as financial guarantees.

In the predominantly **sending Member States** that were represented in the PLD, the regulatory approaches also vary. **Some regulate TWAs rather strictly** (BU, PT); on top of a publicly accessible registration system, there is a **license system** for TWAs in place as well because of the fraud-sensitivity of the TWA sector. **Other countries are more lenient** (LT, PL, RO), although still stricter than some predominantly receiving countries (DK, NL); in Poland and Lithuania, TWAs are subject to a **registration and validation process** and must meet specific criteria for inclusion in a list (register) of TWAs before they can start their business activities.

Specifically for **cross-border TWAs**, **notification systems** for the posting of workers aim to play a preventive role, as well as the publicly available information on applicable employment conditions that each Member State publishes and keeps up to date on its posting of workers' websites.

With regard to some of the participating countries, **recent legislative changes or proposals** were reported: in the **Netherlands**, a **bill** is pending **regarding a new admission system** with strict requirements to fulfil before TWAs are allowed to operate. In **Malta**, where for a long time it had the basic principles in a regulation of TWA based on the EU Directive, and since last year a **new restrictive** but also rather complex **legislation**, is in place **covering both TWAs and other labour intermediaries**.²⁶ **From April 2024 onwards**, a **licence is needed to operate** a TWA in all cases. If the employment conditions are breached twice, the licence is withdrawn.

As **major problems with abuse** are related to the many **third-country nationals** (TCNs) among agency workers, in **Malta**, regulation has become stricter in this regard as well: TCNs now need to have a contract for the duration of at least 1 year when they come to Malta. There are **special provisions for TCNs** also in **Lithuania**. However, here the requirements have recently become more lenient. Following a change in its legislation one year ago, in Lithuania there is now the possibility for TWAs to conclude a labour contract with a TCN if they receive the temporary residence permit on the basis of work (as temporary workers), whereas previously, the TCN could not work as a temporary agency worker. In order to receive a residence permit in Lithuania, the worker needs to have an employment contract for at least 6 months with a specific salary (obligation to pay no less than the last average monthly gross wage which is counted from all country economic sectors for the calendar year and published by the State Data Agency).

With regard to posting, there are notification systems in place in all participating countries. For instance, in **Denmark**, when a foreign company posts workers to the Danish territory to carry out work, they need to register in the so-called Register of Foreign Service Providers (RUT) system information on **where the work will be carried out, which people are involved and what kind of work** they are doing. This allows the Danish authorities to go and check the persons working in the user undertaking. It is difficult for the working environment authority to find the TWAs, as they do not have a specific system for that. Foreign companies not registered, or not correctly registered in the RUT system face high fines (10.000 DKK), and TCNs must have all required documents to work in Denmark. The police checks whether the TCNs have been posted correctly and worked in the Member States where they are posted from (for instance when a Ukrainian worker is posted via Poland; did he really work in Poland before being posted?).

²⁵ Although it should be noted that collective agreements may to some extent deviate from the legal regime, in particular with regard to limitations on the duration and number of assignments to user companies.

²⁶ For more detailed information: see also section 4 below.



The **role of social partners in the regulatory framework for TWAs varies** as well. In some Member States, representative employer organisations for the temporary agency work sector exist which also have a mandate for **collective bargaining** (predominantly in Western Europe). In (most) other Member States, employer organisations exist but these are professional associations that have no direct collective bargaining role but may perform a role in the regulation of the temporary agency sector, through forms of **self-regulation** such as enforcing codes of practice, or through **influencing the development of law**. With regard to trade unions, **France** has developed a specific trade union structure for temporary agency workers. In all other countries, agency workers are free to join the relevant union for the sector, occupation or workplace in which they are placed. Even though no specific union structure exists, in some countries, trade union organisations at cross-sectoral as well as sectoral level have established own departments and branches for temporary agency workers in response to the growing role of this type of work amongst their members. Nevertheless, in most countries, the **unionisation level in the temporary agency sector is rather low** and often there is a significant gap between union membership rates of temporary agency workers and those of workers with standard contracts.²⁷

In addition to national authorities, social partners are also involved in enforcement in the Member States, directly or indirectly. Trade unions often play a role in representing posted workers in proceedings and in receiving complaints from posted workers. Also, social partners cooperate with national authorities (see also section 4.3 below).²⁸

Key take-aways: variety of regulatory models

- ▶ Regulatory frameworks for TWAs significantly impact agency workers' conditions and the TWA sector's opportunities for growth (or not) within the labour markets of EU Member States. Equal treatment laws ensure temporary agency workers receive comparable pay and benefits to permanent employees at user companies. Key regulations for TWAs often include limits on assignment duration, reasons for the use of temporary agency workers, and conditions for cross-border (recruited and/or posted) temporary agency workers.
- ▶ EU Member States vary widely in their regulatory frameworks for TWAs. Some of the countries represented in the PLD, such as France, have a rather strict system, allowing TWAs only for temporary needs and requiring detailed financial guarantees.
- ▶ From a cross-border perspective, it is remarkable that some sending countries (e.g., Bulgaria, Lithuania, Poland, Portugal) have a stricter approach compared to some receiving countries with a rather lenient system (Denmark and the Netherlands).
- ▶ Substantial issues with abuse are related to the numerous third-country nationals (TCNs) among temporary agency workers. This was one of the reasons for Malta introducing a stringent licensing system for TWAs and other intermediaries in 2024. In the Netherlands, a bill is pending aimed at tightening the requirements for TWAs.
- ▶ In all countries, notification systems are in place for cross-border posting of temporary agency workers, such as Denmark's foreign service providers system (RUT), which requires all foreign companies to report employment details to authorities.

²⁷ See also E. Voss et al, *The Role of Temporary Agency Work and Labour Market Transitions in Europe: Institutional frameworks, empirical evidence, good practice and the impact of social dialogue*, Report commissioned by Eurociett / UNI Europa, Februari 2013, p. 55-56.

²⁸ This is discussed in more detail in the European Commission's *Study supporting the Monitoring of the Posting of Workers Directive*, Brussels 2024, section 7.2 (Case study on promising practices involving social partners).



- Social partners play varying roles in the regulatory framework for TWAs, from collective bargaining in some countries to supporting enforcement efforts in others. For example, France has a specific trade union structure for temporary agency workers. Low rates of trade union membership among agency workers, especially posted workers, contribute to pay gaps and enforcement challenges. This leads to a lack of awareness of high labour standards, such as in Denmark, which results in underpayment compared to local (agency) workers.

2.3 Rules for setting up, dismantling and re-establishing TWAs

The participants in the PLD discussed in some detail the differing requirements existing with regard to who can set-up, dismantle and re-establish a TWA in their countries. For instance, in some countries (e.g. MT), **TWAs can be both legal persons and natural persons** ('sole trader'). In other countries (PT, RO), TWAs must always be a legal entity.

Many **requirements** of licensing procedures (BU, MT, PT), declaration procedures (FR) and authorisation processes (RO), such as for inclusion in the public list of registered TWAs (e.g. LT, PL²⁹), as mentioned by the PLD participants, are **rather similar**. This includes:

- Requirements for **ensuring financial stability** (often a minimum capital is required, either equivalent to the average yearly payroll, or, in **Malta**, if the TWA has less than 20 workers, this is 20.000 euro. Above 20 workers, the bank guarantee is 20.000 euro and a sum equivalent to two percent of the total annualised wages payable to all the employees).
- Showing **evidence of compliance with wages** (PT, RO), **social security contributions** (FR, LT, MT, PL, PT) **and tax duties** (no debts; BG, LT, MT, PL, PT), **and working conditions** (declaration that there are no infringements: LT; MT).
- **Periodical mandatory renewal requirements** (in **Portugal** and **Romania** every two years) **or checks** (in **Poland** the TWA is checked once every 6 months by information gathered directly from the tax authority; in **Bulgaria** checks are carried out by the Labour Inspectorate every year at the end of June); In **Lithuania**, TWA companies need to provide information every month such as, where workers have been posted and how many hours they worked. If the information is not provided, or if they haven't carried out substantial activities in the past 4 months, the company is removed from the public list of TWAs.

Less frequently mentioned were the following requirements or elements of applicable procedures:

- **(Group) insurance coverage** to protect the agency workers (BG, PL, PT).
- That the **director may not have a criminal record** (LT, PL, RO) **or should be a 'competent person'** (MT). One of the main issues in **Malta** is that directors are often living abroad. Hence, the requirement also applies for overseas companies. The competent person must be a resident in Malta and has the same personal liability as the (formal) director. This is a person that has experience in human resource management, and has no pending liabilities regarding social security contributions, tax, and VAT. The labour inspectorate also

²⁹ The register of employment agencies is public and available at <https://stor.praca.gov.pl/>.



checks the **credentials of shareholders** (according to the current rules, if they own at least 25% of the company, the legislation obliges shareholders to submit a compliance certificate).³⁰

- That every **TWA needs to have a real premise** as a measure against letterbox companies (**Poland**) or that operations from a home-desk are not allowed (**Malta**).

In **Malta**, all TWAs undergo **inspections before obtaining licenses**. There have been 90 licenses issued since June 2024, with 90 more in progress. Also, **feedback** is asked **from other enforcement authorities** before granting a license.

Box 1: Country-examples on dismantling and re-establishing TWAs

As confirmed by the country-examples below, whether the regulations regarding the dismantling and re-establishment of TWAs are lenient or strict, is highly relevant to the (in)effectiveness of penalizing non-compliance with TWA regulations.

Lenient approaches:

- In **Lithuania**, **legislation** used to be very **flexible** with regard to **re-establishing**: the day after being removed from the list, for instance if certain information is not provided, or if TWAs have not carried out substantial activities in the past 4 months, TWAs could ask to be included again (in practice about 50% of removed TWAs request again for inclusion). The Parliament adopted amendments to the law, which have come into force as of 1 January 2025. This **new legislation introduces a 6-months waiting period** before TWAs that have been removed from the list can request to be included again.
- In the **Netherlands**, if a company faces liquidation problems, the Chamber of Commerce can decide to terminate the TWA. **The TWA can re-establish and register itself again rather easily**. However, the Chamber may examine the request in light of the reasons for dismantling the previous agency.

Stricter approaches:

- In **Bulgaria**, before a sanctioned TWA is eligible to receive a new license from the National Employment Agency, the **company must wait 3 years** to pass. However, it is a **common practice for owners to register new companies** in order to bypass this waiting period.
- In **France**, TWAs must provide **declarations** to the Labour Inspectorate in which they must **indicate what activities they intend to undertake** and, **even ask permission to cease** the activity. If the previous declaration is not accepted, the TWA is not allowed anymore.

³⁰ In between the 2nd and 3rd PLD meeting, a list of requirements for identifying which TWA directors and shareholders are foreigners (but licensed in **Malta**) was discussed in depth with a legal team and it was recommended that a tax compliance certificate should be requested with respect to any shareholder, irrespective of the shareholding held within the company as confirmed. To verify eligibility of foreign directors and shareholders, collaboration with other entities is necessary regarding passport numbers and date of births (police, Jobsplus and Identità vetting). The policies and rules in this regard have been updated to reflect such requirements and vetting approach.



Key take-aways: Requirements for setting up, dismantling and re-establishing a TWA

The participating countries in the PLD have varying requirements for setting up, dismantling, and re-establishing TWAs.

- ▶ In some countries, TWAs can be legal persons or natural persons, while in others (PT, RO) TWAs must always be a legal entity.
- ▶ Licensing procedures, declaration procedures, and authorisation processes have rather similar requirements in many of the countries. Such requirements include showing evidence of financial stability (FR, MT), showing compliance with wages and working conditions and/or periodic renewals or checks (e.g. LT, PT, RO).
- ▶ Additional requirements may include group insurance coverage (BG), a director without a criminal record (MT), and a real premises for operations (MT, PL). In Malta, all TWAs undergo inspections before obtaining licences, and feedback is gathered from other enforcement authorities.
- ▶ In some countries, legislation facilitates easy dismantling and re-establishing of TWAs (e.g. LT, NL). As of 2025, stricter rules apply in Lithuania: Instead of requesting an almost immediate restart, TWAs must now wait six months before they can ask to start operating again. In Bulgaria, a sanctioned TWA must wait 3 years before being eligible to receive a new licence. In France, TWAs must ask permission for their activities through providing declarations to the Labour Inspectorate and also ask permission to cease the activities.

2.4 Prevalence and characteristics of temporary agency work

As mentioned above (section 2.1), temporary agency work is an established feature of European labour markets, while at the same time the share of TWAs in national labour markets is varied. For instance, among the participating countries in the PLD, the **Netherlands** represents a country with a large share of agency workers (5.2 %), whereas in **Bulgaria** (0.2 %), **Romania** (0.3 %) and **Poland** (0.4 %) it concerned a very low percentage of working people.³¹

Temporary agency workers in the participating countries are **typically young individuals with a range of educational backgrounds (mostly low to mid-skilled)**, and sometimes working while completing their studies. They are flexible and willing to take on different assignments. For them, a TWA offers a gateway into the labour market. According to the PLD participants, they usually operate at least in the following economic industries and branches (also as posted workers abroad):

- construction (DK, FR, LT, MT, NL, PT, RO),
- road transport of goods (LT, NL, PL, RO) and public transport of persons (MT),

³¹ Ibidem.



- administrative support (PL, PT, IT, RO),
- agriculture (seasonal) (NL, PT, RO) and fruit picking (DK),
- manufacturing (FR, PT),
- meat industry (NL, PL) and fish and vegetable industries (PL),
- personal care/nursing (FR, MT),
- tourism (MT, PT) and hospitality (RO),
- wrapping/packing flower industry (NL),
- cleaning (DK)
- retail (MT: supermarkets but also local shops).

Notably, in **Romania**, although a big country (31 million residents, of which 9 million are living and working abroad), it was reported during the PLD that as of September 2024, there are only 831 TWAs registered, with 624 of them engaged in teleworking, mainly in ICT and hospitality sectors. Incoming TCNs come mostly from South-Asia.

Malta is seeing an increase in agency workers in many sectors and not only in lower-end jobs.³² Public transport is run almost entirely by TCN workers. In other sectors, agency workers are primarily recruited from third countries. This is a result of a thriving economy. Over the past decade, the population has nearly doubled, making it challenging for the labour inspectorate to determine whether individuals are being paid correctly. Additionally, many government jobs are contracted out, such as in the cleaning sector. Here, equal pay conditions are better guaranteed as the minimum wage and the different conditions of employment are based on a collective agreement.

Key take-aways: Prevalence and characteristics of temporary agency work

- Temporary agency work is a common part of the labour market in EU member states, with varying shares compared to total employment. For instance, the Netherlands represents a country with a large share of agency workers (5.2%), whereas Bulgaria (0.2%), Romania (0.3%) and Poland (0.4%) have a low percentage of agency workers. Agency workers are often young with diverse educational backgrounds. These workers are seen as flexible, willing to take on different assignments, and use TWAs as a gateway into the labour market.
- Temporary agency workers are found in many sectors in the countries participating in the PLD. The most mentioned sectors include construction (DK, FR, LT, MT, NL, PT, RO), road transport (LT, NL, PL, RO), administrative support (PL, PT, IT, RO), agriculture (NL, PT, RO), fruit picking (DK), manufacturing (FR, PT), fish and vegetable industries (PL), meat industry (NL, PL), personal care/nursing (FR, MT), tourism (MT, PT), hospitality (RO), public transport (MT), and retail (MT).

³² This was confirmed in a recent, extensive mapping out where TWAs operate in **Malta**, which is also important for gathering statistical information. The results were presented during the 3rd PLD meeting: Currently, there are 409 outsourcing companies, 1632 recruitment agencies, 1512 pure TWAs, 15301 companies combining temping and outsourcing.



3.0 Enforcement challenges in national and cross-border contexts

This section addresses main and specific **challenges enforcement authorities encounter** in monitoring and enforcing regulations on temporary agency work. It starts with some background information (section 3.1) and then provides the main challenges that were discussed regarding the enforcement of **TWA-regulation within national contexts, cross-border recruitment, and the posting of workers** (section 3.2). Next, specific challenges with regard to combating **abuse of temporary agency workers** are addressed (section 3.3), followed by the specific challenges that enforcement authorities face in addressing the circumvention of TWAs regulation, such as **letterbox companies**, complex employment relations, and **multiparty arrangements** that hinder accountability and complicate the detection of fraudulent activities (section 3.4).

3.1 Background information

With regard to the regulatory background at the **national level**, it is important to note that, apart from prohibitions or restrictions on the use of temporary agency work³³ the Directive does mention the need to provide remedies against the abusive use of temporary agency work. Article 5(5) stipulates that **appropriate measures** must be taken in accordance with national law and/or practice **to prevent misuse** in the application of Article 5 (on equal treatment of agency workers with workers from the user undertaking), and in particular, to prevent successive assignments designed to circumvent the Directive's provisions.³⁴ According to Article 10, **Member States** should provide for administrative or judicial procedures to safeguard temporary agency workers' rights and **should provide for effective, dissuasive and proportionate penalties** for breaches of the obligations laid down in this Directive.

When **placing their workers across the borders**, the TWA must comply with all the provisions of the **Posting of Workers Directives**,³⁵ including the relevant administrative requirements and control measures. As posted workers' employment (and social security and tax) conditions are always linked to more than one legal system, this creates (additional) obstacles in terms of **identifying, applying and/or monitoring and controlling posted workers' rights** for employers, intermediaries, workers, trade unions and other worker representatives as well as for inspectorates. The fluidity in the cross-border context, with firms often disappearing across borders or going out of business, complicates efforts to enforce (and execute) national labour standards. The Enforcement Directive 2014/67/EU addresses these salient issues with a **comprehensive approach to enforcement**. This approach was explained in the proposal for the Enforcement Directive as follows: *'The comprehensive approach to enforcement includes awareness-raising (better information), state enforcement mechanisms (inspections and sanctions) and private law enforcement mechanisms (joint and several liability). All aspects are deemed important for a balanced approach. Weakening one of the aspects would imply strengthening other aspects of enforcement in order to achieve a similar result'*.³⁶ Measures and tools include:

- a **non-exhaustive list of indicative factual elements** to help competent authorities such as labour inspectorates determine whether the establishment of the posting company in the sending State is genuine

³³ At national level, Article 4(1) of Directive 2008/104 allows for prohibitions or restrictions on the use of temporary agency work justified e.g. by the need to ensure that abuses are prevented. In addition, requirements related to registration, licensing, certification, financial guarantees or monitoring of TWAs are a national competence (see Article 4(4) Directive 2008/104).

³⁴ Case C-681/18, *KG*, EU:C:2020:823. See also Case C-232/20 *Daimler* EU:C:2022:196.

³⁵ Directive 2018/957/EU of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services; Directive 2014/67/EU.

³⁶ COM 2012 131 p. 20.



(Article 4(2) of the Directive) and to assess whether posted workers are only temporarily performing work in a Member State other than the one they normally work in (Article 4(3) of the Directive);

- ▶ a framework for **improving access to information in host Member States**, relevant for the posting of workers (Article 5) in terms of strengthening legal certainty for service providers;
- ▶ a framework for **strengthening administrative cooperation between authorities** and other stakeholders across countries (Articles 6 and 7);
- ▶ a (non-exhaustive) list of **justified and proportionate administrative requirements and control measures** that can be applied by the Member States (Article 9);
- ▶ an obligation upon Member States to ensure **effective mechanisms for posted workers to lodge complaints and initiate judicial/administrative proceedings** (also through trade unions) against their employer (also) in the host Member State (Article 11);
- ▶ a **subcontracting liability arrangement for wages** (Article 12). This measure is restricted to the **construction sector** despite clear evidence that the practice of subcontracting has spread to other sectors such as transport, meat processing, agriculture and other labour-intensive sectors (currently Member States are free instead of obliged to expand the scope to these sectors).

Stricter registration rules, such as **notification systems**, dissuasive penalties for non-compliance with the rules for service providers that post workers are **allowed (but are not mandatory)** under the Enforcement Directive, and have been introduced in the Member States to improve the quality of data collection on postings and to facilitate the monitoring and enforcement of rights of posted workers. Sometimes service recipients (user companies) are made co-responsible, e.g. to check correct notification.

The **revised Posted Workers Directive** includes some additional surveillance and control measures. To strengthen legal certainty and the enforcement of laws, Member States are required to publish 'without undue delay and in a transparent manner' **information on the constituent elements of remuneration** on their **single official national website**, in addition to the other information referred to in Article 5 of the Enforcement Directive, as well as on any additional terms and conditions of employment applicable to postings that exceed 12 or, where applicable, 18 months. Additionally, each Member State must ensure that the information on its single official national website is **accurate and regularly updated**. Failure to comply with this obligation will be taken into account when determining fines for infringement of national provisions adopted pursuant to the (revised) Directive, to the extent necessary to ensure the proportionality thereof.³⁷

Also, the revised Posting Directive complements the Enforcement Directive by introducing an additional obligation for the host State to **ensure that workers that are not genuinely posted are not left without any protection**. Art. 4 of the Enforcement Directive already provides the Member States with criteria for assessing whether the relationship between an undertaking and a worker is a genuine employment relationship. The revised Posting Directive stipulates that in a situation where after such assessment by the host Member State it is established that an undertaking is improperly or fraudulently creating the impression that a worker is posted in accordance with the Posting Directive, that Member State shall ensure that such workers do not stay in a disadvantaged situation as compared to posted workers.³⁸

Clearly, the Posting Directives facilitate and encourage enforcement in some respects, but also call for real commitment with **budgetary implications** and strong political will at the level of the host Member State.

³⁷ Article 3, para. 1, sub-para 3-5, of the revised Directive (see consolidated text version 30.7.2020).

³⁸ Article 5, sub-para 4-5, of the revised Directive (see consolidated text version 30.7.2020).



In some **labour-intensive and price-sensitive sectors** such as construction, meat processing and hotel-tourism-catering, TWAs are often involved in **long subcontracting and supply chains**.³⁹ For labour inspectorates, this complicates monitoring and enforcement, in particular regarding the **identification of the (real) employer**. The longer the supply chain, the higher the likelihood that employers, workers, and enforcement authorities will face complexities in meeting the requirements of declared employment.

Also, the **increased recruitment and/or posting of third country nationals** (TCNs), makes monitoring and enforcement more difficult.⁴⁰ As established in EU case law, if a TCN legally resides and works in a Member State, the employer (which can be a TWA) can post that worker to another Member State under the same conditions as a Union citizen. In these situations, migration legislation is added to the already **challenging mix of applicable legislation to the cross-border posting of temporary agency workers**, which contributes significantly to the proliferation of undeclared work. As the different applicable regulatory packages (labour legislation, migration legislation, and tax and social security legislation) are not fully aligned, this **adds to the complexities**, especially in the **context of long supply chains**.⁴¹

While the majority of labour market intermediaries are formally listed enterprises, some operate informally and without being registered.⁴² **Complex and non-transparent triangular employment relationships** and a chain of subcontractors and intermediaries, often operating in **several countries**, make the monitoring and detection of fraudulent forms of temporary agency work extremely difficult. According to a recent study by the Platform, '[...] this is further compounded when there is the involvement of 'letterbox' TWAs, unregistered/unlicensed agencies, and 'phoenix' activities across long and complex subcontracting chains involving numerous entities, with TWAs employed at the lowest level of the chain.'⁴³ In addition, **labour inspectorates have limited mandates** (especially when it comes to cross-border issues) which is another obstacle to effective monitoring.

Monitoring recruitment agencies and temporary work agencies in the cross-border context faces many other considerable challenges. One crucial loophole that hampers the enforceability of the regulatory framework is linked to corporate mobility law. Some legal advisers specialise in setting up **letterbox companies**, which are legal entities with little or no activity in the country of registration. These companies **implement strategies across legal areas**,⁴⁴ while **inspectorates are often divided along the lines of legal areas** ('silos'). One major challenge in fighting exploitative bogus arrangements is that the CJEU has facilitated the **establishment of letterbox companies** through its case law in a number of judgments.⁴⁵ At the same time, the CJEU ruled that a TWA can only benefit from the posting provision in Regulation 883/2004 on the coordination of social security systems if it

³⁹ See the European Commission's Study supporting the Monitoring of the Posting of Workers Directive, Brussels 2024, p. 88-90 (on construction sector), 105 -111 (meat processing sector), 122-123 (hotel-tourism-catering sector) and references therein.

⁴⁰ According to a recent study by ELA (see European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg, p. 62), based on fieldwork evidence collected from three Member States (Poland, Portugal and Slovenia), five key challenges related to the monitoring and enforcement of the rights of posted TCN workers were identified: 1) intersection of competences and cooperation challenges among enforcement authorities at national level; 2) cross-border cooperation in enforcement; 3) challenges when inspecting specific types of companies such as TWAs, shell companies, letterbox companies and others; 4) lack of human resources in enforcement and monitoring; 5) the vulnerability and reluctance of posted TCN workers to cooperate with enforcement authorities. Apart from challenge no. 4, which was not discussed during the PLD, these findings confirm the challenges mentioned and discussed during the PLD with regard to preventing and tackling non-compliance in TWAs.

⁴¹ UDW Platform, *Tackling undeclared work among third country nationals working in supply chains, including via temporary work agencies* (2024; Webinar report).

⁴² In contrast to licensing systems, registration systems simply require the labour market intermediary to notify the appropriate public authority, which will then list it. This should usually be done before starting to operate the business. See e.g. Eurofound (2016), *Regulation of labour market intermediaries and the role of social partners in preventing trafficking of labour*, Publications Office of the European Union, Luxembourg, p. 9, 21.

⁴³ See I. Pavlovaite, K. Jakubowska, et al. (2021), *Tools and approaches to tackle fraudulent temporary agency work, prompting undeclared work*, ICF/CSD European Platform tackling undeclared work.

⁴⁴ Several studies illustrate how employers and intermediaries repeatedly create such exploitative arrangements, strategically using legal loopholes. See e.g. M. Houwerzijl, E. Traversa, and F. Henneaux, *A hunters game: How policy can change to spot and sink letterbox-type practices*, Brussels: ETUC December 2016.

⁴⁵ See most recently CJEU, Case C-106/16 (*Polbud*), ECLI:EU:C:2017:804.



carries out a 'significant part' of its activities of assigning temporary agency workers in the territory of the Member State where it is established.⁴⁶

Another challenge is that besides 'traditional' temporary agency work (whereby the 'staffing agency' matches labour demand and supply for temporary work), there are **other types of intermediaries** active on the labour market that use other types of contracts, **such as subcontracting**. These forms of triangular employment relationships are not covered by Directive 2008/104, thus undermining its effectiveness.⁴⁷

3.2 Main challenges regarding monitoring and enforcement of TWA regulation

Firstly, the focus during the PLD was on the main challenges which enforcement authorities face with monitoring and enforcement of regulation/legal framework applicable to temporary agency work. These challenges discussed relate to:

- ▷ The **national context**: TWA workers hired and placed to a user undertaking in a Member State, by a TWA established in that same Member State;
- ▷ **Recruitment** of temporary agency workers **in one Member State** who exercise their freedom of movement to **work** in a TWA established **in another Member State**;
- ▷ **Posting** of temporary agency workers **across Member States**, including posting of **third-country nationals** (TCNs).

A big challenge concerns TWAs that work with **irregular or informal labour contracts** which do not or not fully comply with legal standards. An **example** is that the status of workers in regular labour contracts does not specify to which user company workers are sent (BG). In **Denmark**, tracking where workers are employed and conducting checks is also difficult, especially if they do not register in the foreign services providers registration system RUT.⁴⁸

Also, the **complex regulatory framework** involving various laws regarding employment conditions, taxes, and social security can lead to **inconsistent interpretations**. In particular in the context of cross-border situations, this can make ensuring compliance with regulations very difficult (FR, LT, PT). For **example**: TCN employees working in **France** illegally, so without a legal work and/or residence permit, can still obtain a social security number, making these workers appear as lawfully employed from a social security perspective. And in **Bulgaria**, there are different kinds of work permits regarding TCNs which are very restrictive, where these permits do not allow posting of TCNs. There is however no regulation that makes it mandatory that a work/residence permit of a TCN is to be revoked should the local employer fail to notify/declare the TCN to the General Labour Inspectorate Executive agency.

In **Malta**, bona fide TWAs apply for licenses, but some struggle to meet all new more robust requirements and procedures of the regarding the **new legal framework** for TWAs, which is ongoing. In order to ensure that labour inspectors can better adapt to the new legal framework for TWAs, the labour inspectorate responsible for TWAs,

⁴⁶ CJEU, Case C-784/19 (*Team Power Europe*), ECLI:EU:C:2021:427, para 66. See S. Robin-Olivier (2022), p. 682-683 on this Bulgarian TWA and similar TWAs which have made a 'business model' of hiring temporary agency workers for the purpose of posting them to user companies in Member States with higher labour costs.

⁴⁷ See more extensively on this issue Emiliano Maran and Elisa Chieragato, Multiparty work relationships across Europe: A comparative overview. *European Labour Law Journal*, 13(4), 474-491; Nuna Zekić (2024), Possible avenues for a more effective temporary agency work directive. *European Labour Law Journal*, 15(1), 68-85.

⁴⁸ For an explanation of the RUT, see section 2.2.



the Department for Industrial and Employment Relations (DIER), plans to provide training to its inspectors in 2025.⁴⁹

Another issue concerns **public procurement**. TWAs are competing for big procurement tenders with **very low prices, at the expense of workers' conditions**. Labour inspectors see violations such as deduction from wages, not paying overtime etc, due to this fierce competition between the agencies (MT). Cross-border situations also pose challenges in determining the actual wage levels and ensuring safe working conditions and **overseeing dangerous conditions like in construction**.

Difficulties in cooperation with other authorities further complicate enforcement efforts. An **example** of this is given by the Portuguese participants in the PLD. In **Portugal**, **at national level** there are five authorities that have part of the competences regarding temporary agency work regulation. The Authority for Working Conditions (ACT) is responsible for the inspections at the workplace but is not involved in the licensing of TWAs. ACT shares their data with the social security authority (as this authority belongs to the same Ministry), but this is much more difficult with the tax and immigration authorities (as they are under other ministries).

Determining accurate wages if various **collective agreements have to be checked** is also challenging. In **Lithuania** it is observed that for the sending TWA it is sometimes also difficult to receive the information from the host country (on minimum wages, collective agreements).

In **Poland**, the main issue is **formal barriers**, as the labour inspectorate's official charges can only be based on findings collected during inspections. Therefore, the labour inspectors cannot use **proof from other authorities**, as that is not allowed.

In **Romania**, there are no specific procedures in place for the TWAs established on its territory due to their limited numbers. However, there is an issue with tackling bogus self-employment, linked to the **not always clear-cut demarcation between the legal concepts of employee and self-employed**.⁵⁰

In the **cross-border context**, some labour inspectors experience a **lack of cooperation** during inspections involving TCNs from sending countries (NL, MT). In this context, labour inspectors also face **jurisdictional challenges**, as they may struggle with different legal requirements in other countries and have **no competences across the border** (FR, PT, RO). **Difficulty to coordinate joint inspections** with authorities **across Member States** to verify the legitimacy of TWAs is also experienced (LT).

Key take-aways: Main monitoring and enforcement challenges

- ▶ Difficulties tracing workers and ensuring compliance with legal standards related to irregular or informal labour contracts (BG), or non-registered workers recruited and/or posted across borders (DK).
- ▶ Challenges in ensuring compliance due to the complex regulatory framework involving various legal concepts, criteria, and sanctions regarding employment conditions, social security, taxes, and immigration. This can lead to inconsistent interpretations, especially in the cross-border context (FR, LT, PT).

⁴⁹ A list of training needs is developed by DIER in **Malta**, to be implemented in 2025. Part of this will be: (1) legal framework training, such as detailed sessions on the Employment Agencies Regulations and the Employment and Industrial Relations Act. (2) Procedural and enforcement training, such as on evidence gathering: Best practices for collecting, documenting, and preserving evidence. (3) Inspection techniques training, such as: How to conduct compliance inspections effectively; identifying when an agency license is required under S.L. 452.130; understanding Wage Regulation Orders for specific sectors. (5) Time management is also important training on how to manage the workload of applications and to seek a better balance between quality and quantity.

⁵⁰ This issue was discussed in a previous PLD. See European Labour Authority, UDW platform (2024), *Approaches to preventing, detecting and tackling bogus self-employment. Report from the peer learning dialogues*, p. 7-8.



- ▶ Struggles faced by TWAs in meeting new requirements and procedures under the new legal framework (MT).
- ▶ Competition among TWAs for large procurement tenders, resulting in low prices at the expense of workers' conditions, poses challenges for labour inspectors in determining actual wage levels and ensuring safe working conditions in sectors such as construction (MT).
- ▶ Difficulties in inter-institutional cooperation in the national context complicate enforcement efforts, as seen in Portugal, where five authorities share the competences regarding TWA regulation.
- ▶ Formal barriers hindering enforcement efforts include, for instance, in Poland where the labour inspectorate's official charges can only be based on findings collected during inspections, prohibiting the use of evidence from other authorities.
- ▶ A lack of specific procedures for TWAs due to limited numbers is evident in Romania.
- ▶ Challenges in determining accurate wages arise due to the need to check various collective agreements, especially in the cross-border context in Lithuania.
- ▶ There is a lack of cooperation during inspections involving TCNs from sending countries in some cases, such as in the Netherlands and Malta. Jurisdictional challenges are present in France, Portugal, and Romania, and there are difficulties in coordinating joint inspections across Member States, particularly in Lithuania.

3.3 Specific challenges to combat abuse of agency workers

During the PLD, specific challenges were discussed that enforcement authorities face when trying to prevent and tackle the abuse of workers placed through TWAs **in national or cross-border contexts** regarding e.g. non-payment of actual hours worked, failure to respect minimum wage regulations, obligation of the employer to pay social security contributions. **Non-payment of actual working hours** is a common issue in all countries. Identifying **underdeclared work** and monitoring overtime is very challenging (LT, PT, RO). For **example**, in **Lithuania**, the labour inspectors try to verify whether a workers' salary has been paid through bank transactions and penalise employers for unpaid wages. However, Lithuania is mainly a sending country and in that capacity it does not know the correct wage level of the host country, which poses a problem in this regard..

Lack of awareness among workers about their rights is an **important factor** in these challenges. It was observed by inspectors that workers just sign that they have read and understood all the information, while in reality this is often not true. In the cross-border context, **language barriers** can hinder compliance as well, for instance with Occupational Health and Safety (**OSH**) measures, especially in construction. This is an **obligation of the user company** but it is difficult to check if they comply.

As an **example**, the lack of clarity on working hours and rules frequently leads to **unpaid overtime** and un(der)declared work in **France**, resulting in unfair treatment of workers. The worker is supposed to work 35h/week, but posted workers often don't know this, and therefore they could end up working 40 hours. Also, the posted workers often don't know it in situations that they are working un(der)declared, leading to unequal treatment with local workers. In some cases, **per diem allowances** are used **to reduce social contributions** causing discrepancies in payment, since in France, workers don't pay social contribution on these professional



allowances.⁵¹ Moreover, in **France** undeclared work is identified, among others, by checking social security contributions and payment verification. **If the authorities cannot identify the worker correctly, it not possible to provide the worker with a benefit entitlement.**

Other examples were shared regarding cases where the **workers did not know by whom they are employed** (e.g. MT). Sometimes, **both employers and employees do not always know under which legal category the agreed-upon temporary work falls.** For example, workers may think they have a 'civil law contract'⁵² as the contract is framed as if it is a service agreement governed by civil law, while in reality they should be qualified as temporary workers, working in subordination and therefore on an employment contract (LT, PL).⁵³

Fear of retaliation (BG, NL, RO) and workers colluding with the TWA to avoid detection of violations of the law (RO) were also mentioned: For **example**, workers recruited abroad and posted to the Netherlands by TWAs often suffer from **substandard housing and contract dependency**. Currently, as noted by the representative of the Dutch trade union FNV, accommodation is often substandard because it is not regulated, and the rent that must be paid may be up to 25% of the salary, which could be deducted from the salary. FNV also pointed to the problem that during the first 4 months, it is difficult for migrant workers to register their place of living in the **Netherlands**. This practice makes it very difficult for them to prove that they are or have been in the Netherlands. This also makes it difficult for the workers to complain about their situation. Other challenges regard **collaboration between TWAs and user undertakings to exploit workers**, putting them to work for too low wages and substandard labour conditions. However, while intentional exploitation can be suspected in certain cases, it is difficult for labour inspectors to prove it (NL).

Ensuring e.g. proper payment is especially difficult regarding **TCN workers**⁵⁴ (LT). **Poland** faces issues mostly with **fake posted TCN workers**. An example was given about a company claiming that their TCN workers came officially from Ukraine whereas data from border guards showed that the workers concerned had never been in Ukraine but came directly from Venezuela to Poland. However, the workers testified they came via a certain travel agency 'polonia' and were not complaining about their situation because they **feared to lose their job and visa**. When the inspectors interrogated them, it became clear that the workers indeed had **never been in the country where they have a right to stay**. Another problem is that fraudulent employers do not provide wages to the TCN workers or they provide them with wages in cash. In **Malta**, often the labour inspectorate responsible for TWAs – DIER, tries to **settle the issues out of court**: employers should prove that they paid the workers, and the Maltese authorities check with the workers if they received this exact amount. However, sometimes DIER faces **difficulties**

⁵¹ This example of 'employer social security coordination fraud,' was recently examined by ELA as part of a broader study, showing e.g. that most countries do not have specific procedures for detecting fraud and error in social security in cross-border settings, and instead follow the approaches established for national situations. See European Labour Authority (2025), *Fraud and error and selected issues in the field of social security coordination*, ELA strategic analysis, Luxembourg: Publications Office of the European Union (for a typology of fraud and error in social security, see p. 48).

⁵² A so-called civil law contract (sometimes abbreviated to civil contract) is an atypical contract used to contract labour. It is an intermediate category of contracts in between employment contracts and genuine independent contractors operating a business and officially registered as entrepreneur. For more information on the 'civil contract' or 'civil law contract' under Polish law, see European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg, p. 23 and p. 69, highlighting that TCN workers are "overwhelmingly hired under civil law contracts". Also see European Labour Authority, UDW platform (2024), *Approaches to preventing, detecting and tackling bogus self-employment. Report from the peer learning dialogues*, p. 4.

⁵³ As part of the Strategy of the State Labour Inspectorate (SLI) in **Poland** for 2025-2027: During inspections at employment agencies, TWAs and user companies, the labour inspectors will pay in particular attention to the use of civil law employment in temporary work (i.e. disclosing cases in which an employment contract should be concluded) and circumvention of the provisions of the Act on the Employment of Temporary Workers, especially through the use of outsourcing services, which in practice constitute temporary work.

⁵⁴ In a recently released study (European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg), challenges related to monitoring, enforcement, and non-compliance risk factors, as reported by TCN workers themselves, are dealt with much more extensively. In its section 5.1 (p. 53 – 62) the most problematic issues identified during the fieldwork carried out for this study are listed with the aim to provide insights facilitating targeted enforcement efforts in cooperation between the ELA and Member States.



to get this confirmation from TCN workers. It is difficult to trace the payment and whether these actually have been executed, especially since cash payments are allowed.

In some cases the workers are already in a situation of exploitation when they come to the receiving country (MT). Workers do not cooperate because they are scared. In this regard, the representative of the Dutch trade union FNV emphasized that more attention must be paid to the recruitment stage as there is a whole industry of recruitment firms behind the posting of workers and other low-wage migrant labour movement. In that regard, the trade union representative submitted that **recruitment agencies should be checked on their compliance with fair recruitment practices for migrant workers**. In particular, the union representative referred to principles enshrined in ILO convention 181 on Private employment agencies, articles 8 and article 10, stating that in case of abuses, the government needs to actively protect the rights of the migrant workers. Another instrument that was highlighted by the union representative, is the **IRIS standard on ethical recruitment**, developed by the ILO and IOM.⁵⁵ This standard gives very precise guidance to prevent that when people arrive in countries such as the Netherlands, they don't have employment contracts, or any information about Dutch labour standards. According to the IRIS standard, information must be given before migrants come to the host country in very clear language. This is very important so that labour migrants know better what to expect beforehand.

Box 2: Country-examples regarding cash payment and language challenges

During the PLD, specific attention was paid to issues related to the (un)legality of cash payments and issue related to bridging language gaps, as both issues can seriously complicate measures and efforts to prevent and address abuse by TWAs.

Cash payments:

- In Malta, as cash payments are allowed, it is difficult to know whether something is actually paid or not. There is now a bill pending requiring that wages are paid via bank accounts only.
- In the Netherlands, it has been already prohibited for quite some time to pay wages in cash. This has improved matters. The employer can prove compliance by showing bank transactions. However, the labour inspectors do not have control what happens next (for instance, if workers then withdraw cash from their bank accounts and return the money to the employer).
- In Bulgaria, only larger employers (with more than 100 employees) are obliged to pay the wages via bank accounts. However, bank account accessibility and language barriers are major concerns. Exceptions are made for:
 - a) Local workers with whom an employment contract was concluded for short-term seasonal agricultural work (labour contract that applies only for a single workday). Usually this involves the type of work that can be done in a single day, for example harvesting;
 - b) Migrant workers (TCN) who have a seasonal worker permit in the sense of the Labor Migration and Labor Mobility Act for work of very short duration.

⁵⁵ See <https://iris.iom.int/sites/g/files/tmzbdl201/files/documents/IRIS%20Standard%20Report%20.pdf> This document contains the IRIS Standard (version 1,2 - 2019) which consists of seven Principles supported by specific criteria. The IRIS Standard will be reviewed and updated periodically. As stated in its Preamble (p. 2), the IRIS Standard is derived from a number of sources, in particular international human rights instruments, the UN Guiding Principles on Business and Human Rights, international labour standards and related ILO instruments, the ILO's General principles and operational guidelines for fair recruitment, as well as best practice from government regulators and the recruitment industry.



c) Persons (TCN) with whom an employment contract has been concluded on the basis the Foreigners in the Republic of Bulgaria Act, for a period of up to three months after the issuance of a residence document.

Language barriers:

- ▶ In Malta, to address language challenges, sometimes cultural mediators during inspections are utilised.
- ▶ Also, in Poland, interpreters are used. However, many TCNs speak languages that are difficult to find interpreters for. When you finally have the translator, the worker is gone.
- ▶ Denmark has telephone interpreting assistance with translators in any language they wish, which they use for everyone with whom they cannot communicate properly. It is used not only with TCNs, but also with EU citizens.

Key take-aways: Specific challenges to combat abuse of agency workers

In all participating countries, enforcement authorities face challenges in preventing and tackling abuse of agency workers. As specific challenges were mentioned:

- ▶ Non-payment of actual working hours, failure to respect minimum wage regulations, lack of awareness among workers about their rights and/or their status, identifying undeclared work and monitoring overtime, and language barriers hindering compliance in cross-border contexts (all countries).
- ▶ Fear of retaliation and workers colluding with TWAs to avoid detection of violations of the law are also significant issues (BG, NL, RO).
- ▶ Ensuring proper payment is particularly difficult in relation to TCNs (LT), with issues such as fake posted TCN workers. These workers will not complain because they fear losing their job and visa (PL).
- ▶ In Malta, the labour inspectorate tries to settle issues out of court but faces difficulties with confirming payments from TCN workers. It is difficult to trace payments and verify if they have been executed, especially since cash payments are allowed. Some countries, like the Netherlands, already prohibit cash payments for wages. In Bulgaria, only larger employers are required to pay wages via bank accounts, with exceptions for certain types of workers.
- ▶ Collaboration between TWAs and user undertakings to exploit workers, putting them to work for low wages and substandard labour conditions, presents challenges for labour inspectors in proving intentional exploitation (NL). Also, recruited and posted workers by TWAs often suffer from substandard housing and contract dependency (NL). In this context, the representative of the Dutch trade union FNV highlights that recruitment agencies should be checked for fair recruitment practices to protect migrant workers as stipulated in ILO Convention 181 on Private employment agencies and the IRIS standard on ethical recruitment.
- ▶ Language barriers are a challenge during inspections, with some countries using cultural mediators or interpreters to communicate with workers or telephone interpreting assistance by translators (DK, MT, PL).



3.4 Specific challenges regarding circumvention of regulation

During the PLD, the participants also shared experiences regarding circumvention of TWAs regulation. For instance, it was observed, that the **impossibility for natural persons to operate as TWA** in some countries (see section 2.3 above) is **circumvented**: In **Portugal**, for that purpose, a new phenomenon emerged recently: the 'simple service provider'.

Other multiparty relationships, such as subcontracting, payrolling and multi-services companies, are used to circumvent restrictions on the use of TWAs (e.g. NL). Sometimes, **activities are formally classified as (labour-only) subcontracting, when in reality, they should be classified as temporary agency work**.⁵⁶ This discrepancy is for example, a common issue in the **Netherlands**. To determine whether certain activities are truly subcontracted or, in fact, disguised agency work, the **situation must be assessed based on the facts**. As the work often takes place at the premises of the hiring company or contractor, it should be verified there whether the work is being performed under the supervision and direction of the subcontractor or the hiring company. If it is the latter, the work should be reclassified as agency work. It must be clear whether work is subcontracted or performed under the direction and instructions of the user company (indicating a temporary agency work relationship or perhaps payrolling). Hence, a lot of the **proof lies in the user undertaking, which is often very challenging to check**.

With regard to **letterbox companies and complex employment structures**, including long (subcontracting) chains of interconnected companies and labour market intermediaries, the discussion during the PLD pointed to **challenges** for enforcement authorities **to hold the correct entities accountable for abuses** faced by temporary agency workers. To identify responsible parties and detect companies operating as letterbox companies, **cooperation is key**. However, this is in many countries challenging, **both in national as in cross-border context** (see also section 3.2 above and section 3.5 below).

Labour inspectors often experience difficulties when **collecting data** on for instance payroll and working hours, highlighting the need for improved procedures to address the complexities of letterbox companies. For **example**, for the assessment of whether or not a company has substantial activities in the Member State where it is registered, it is necessary to collect information about the turnover of the company. In such a case, inspectors need to determine what part is declared in **Lithuania**, compared to the part declared in Germany etc. Often, **data sharing** by tax offices is necessary, but this proves to be difficult, also because of **confidentiality issues**. Moreover, if traced, **companies may be quick to dissolve and reappear** (in many of the countries this is rather easy, see section 2.3 for examples), complicating regulatory efforts. In this regard, the (im)possibility of **speedy cooperation** between authorities is experienced as a huge problem, for **example in France**.

As mentioned by the participants from **Bulgaria**, **the legislation to make other entities jointly liable only works to some extent**: To prevent forced labour in supply chains, a provision in the Bulgarian Labour Code stipulates that when the employer is a direct subcontractor of a contract for the provision of services, the contractor under the contract is jointly and severally responsible for guaranteeing the payment of the labour remuneration of the workers or employees. Furthermore, another provision of the Bulgarian Labour Code (on relations between TWA and user undertakings) stipulates that the TWA and the user enterprise shall be jointly liable for their obligations to workers or employees that have occurred during, on occasion of or in relation to the performance of the work assigned to them (Art. 107s, para. 3 of Labour Code). This does not deprive workers or

⁵⁶ Similar practices were identified in a recent ELA-study: "According to the fieldwork, some companies specialise in the supply of labour in cross-border contexts without being registered as TWAs. Additionally, there is a second group of entities that, while legally registered as companies with economic activity, primarily specialise in the supply of labour, that is, in practice, they operate as TWAs and provide workers based on business cooperation agreements or service contracts." See European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg, p. 50. See also footnote 9 above.



employees of the protection provided by the employment contract they concluded with the temporary work agency. However, the **contractor's liability is limited** to the rights of the worker or employee arising from the contractual relationship between the contractor and the employing entity. Here, the contractor is **not liable when he has performed or is performing accurately and in good faith his obligations** under the contract with the employer.

Key take-aways: Challenges regarding circumvention of regulation

Some PLD participants highlighted specific methods used in practice to circumvent TWA regulations.

- ▶ For instance, in Portugal, the emergence of 'simple service providers' allows natural persons to operate as TWAs despite prohibitions in this regard.
- ▶ Other multiparty relationships, such as subcontracting, payrolling and multi-services companies, are used to circumvent restrictions on the use of TWAs (e.g. in the Netherlands). A common issue, particularly in the Netherlands, involves activities formally classified as (labour-only) subcontracting when they should be considered temporary agency work. Determining the true nature of these activities requires assessing whether the work is performed under the supervision of the subcontractor or the hiring company; if the latter, it should be reclassified as agency work.

Furthermore, the PLD participants highlighted the challenges for enforcement authorities in dealing with circumvention of TWA regulations:

- ▶ Letterbox companies and complex employment structures, including long subcontracting chains, pose challenges for enforcement authorities in holding the correct entities accountable for abuses against temporary agency workers. To identify responsible parties and detect companies operating as letterbox companies, cooperation is key. However, this cooperation is often challenging, both nationally and cross-border.
- ▶ Labour inspectors face difficulties in collecting data on payroll and working hours, necessitating improved procedures for assessing substantial activity related to letterbox companies. Often, data sharing by tax offices is necessary, but this proves to be difficult, also because of confidentiality issues (e.g. LT).
- ▶ Furthermore, companies may quickly dissolve and reappear, complicating regulatory efforts, and the lack of speedy cooperation between authorities exacerbates the problem.
- ▶ Bulgaria's legislation on joint liability aims to prevent forced labour in supply chains, stipulating that contractors are jointly liable for guaranteeing the payment of labour remuneration when the employer is a direct subcontractor. However, the contractor's liability is limited to the rights arising from the contractual relationship between the contractor and the employing entity, and they are not liable if they have performed their obligations accurately and in good faith.



3.5 Specific challenges regarding cooperation and the IMI system

During the PLD, a considerable challenge became clear regarding the **varying competences** for inspections and **willingness** to cooperate across entities, with challenges in obtaining information from **tax authorities and immigration authorities**, most specifically. This implies that **interinstitutional cooperation** in the national context needs improvement. Similarly for cross-border cases, interinstitutional cooperation in the national context is key and sometimes very challenging.

Box 3: Country-examples on the need for interinstitutional cooperation

- ▶ In Poland, the labour inspectorate has a division of competences per district. This can lead to delays in inspection and gathering information. For example: A labour inspector from one district begins the inspection at the TWA's registered office. If this turns out to be a letterbox firm and it has employees working in another district, the labour inspector of that district must be requested to start a new inspection. If the board members representing the Polish TWA reside abroad, which is frequently the case, it becomes even more difficult to collect information. The inspection results can lead to a decision on the irregularities and the labour inspectors can also issue improvement orders. However, the fines are rather low, at maximum around 400 euros.
- ▶ In the Netherlands, there is targeted cooperation between authorities in order to identify letterbox companies and distinguish them from TWAs. Non-compliance results in fines, and repeat offenders are flagged in the system. User companies are also fined, however proving liability of user companies in partnership with TWAs remains difficult.
- ▶ In Denmark, it is institutionalised that during inspections, the Working environment authority (WEA) may come across information that falls under the mandate of other authorities, including employment relationship, power to direct the workers, etc. In such cases, if the WEA considers the information relevant, it has the option to notify the appropriate authorities. The WEA does not ask questions outside its mandate, although some of the questions it asks may also be of interest to other authorities, such as the tax agency.⁵⁷

How to **identify the real employer** is one of the main issues leading to **IMI-requests**.⁵⁸ These are often about letterbox companies, in particular when inspectors are confronted with layered entities with difficulties to trace who the responsible employer really is. In this regard, the cooperation with cross-border institutions also presents challenges which were discussed extensively during the PLD.

⁵⁷ In the interim period preceding the 3rd PLD meeting, other Danish authorities (tax, police) were contacted to explore available cross-border information and to ask what kind of information they would need from other countries or vice versa what information WEA can share or not with colleagues from other Member States in case they get an IMI request from them beyond their own competences. For instance, the WEA has no mandate to go after questions on salaries and contracts from the employees. The only thing WEA can do is share info from authority to authority in [Denmark](#) and share the information also with other MSs authorities. The Police is asking more info to other MSs about companies but it's very difficult to get the information. If she cannot get in contact with the right authority is difficult to get the right information. The Tax authority has the policy to first check-up themselves, asking the company about the contracts and then they can ask the other tax authorities in other MSs about the information. This seems to work well.

⁵⁸ A recent ELA study also reports interesting findings on challenges regarding letterbox companies and experiences and opinions on information exchange via IMI (for Poland, Portugal and Slovenia), See European Labour Authority (2025), *Posting of third-country nationals: Contracting chains, recruitment patterns, and enforcement issues. Insights from case studies*, ELA Strategic Analysis, Publications Office of the European Union, Luxembourg, p. 64-67.



It was emphasised that after a request is made in the IMI system, there should be an **answer within three months**, but often the sending country is unable to check if the company established in their country is a letterbox company or not. Additionally, **with regard to issues including third countries**, such as with fake postings involving TCN workers, an issue struggled with, for instance in **Poland** (see section 3.3 above), is that the labour inspectorate **lacks an IMI system for verification**, also regarding questions relating to social contributions.

Box 4: Country-examples on challenges regarding IMI-requests

As can be gathered from the country-examples below, challenges in handling IMI-requests arise when information held by other authorities is necessary, such as tax authorities. In some countries, it is required to submit formal investigation requests to other authorities, which can cause considerable delays in answering IMI requests.

- In **Lithuania**, in case of an IMI-request about a TWA established in their country, the labour inspectors will demand the TWA to provide relevant information. The provided information will then be checked and shared by the inspectors via the IMI system with the inspectors of the host Member State. However, sometimes the TWA chooses not to provide any information because failure to provide documents results in only small fines. Moreover, even if the IMI-request leads to successful inspection and sanction, including that the TWA is removed from the public list of TWAs, the removed TWA could request to be included again after 2 weeks. For example: an issue arose with a company based in Lithuania, run by a Polish director operating from Poland with employees posted from Poland to France. The French social security authority asked via IMI to verify their social insurance. However, as the workers were from Poland, the Lithuanian labour inspectorate was not able to check that. They tried to identify whether the company had a real premise and found nothing. They also checked VAT declaration to the tax authorities. The negative outcome suggested that this was a letterbox company, with its main activities in France. As the TWA did not comply with the requirements to be included in the Lithuanian TWA list anymore, the Lithuanian authorities removed the TWA, and then the French social security authority could fine the TWA. However, the Lithuanian authorities also saw that after one month, this TWA requested again to be added to the list, which could not be refused.⁵⁹
- In **Portugal**, the ACT often receives IMI requests from host state inspectors who have tried unsuccessfully to request information from a Portuguese TWA active in their country with posting of workers activities. In such cases, it often turns out that the ACT is also unable to retrieve the necessary information. This is because the Portuguese company does not respond to a notification from the ACT or, upon further inspection, it turns out that no office exists at all so the mail or letter was not received. Additionally, checking past authorisations on the basis of an IMI request is not easy for the labour inspectors from ACT, as they need to ask the Portuguese Employment Institute (IEFP) which authorizes TWAs for the information, and they are not always easily accessible. Regarding requests about 'substantial activities' of a certain company in Portugal, ACT has to rely on what social security authorities are supposed to check before they issue a PD A1 since it is not the responsibility of the labour inspectorate to conduct these assessments.
- In **Bulgaria**, the situation is very similar situation to Portugal. In Bulgaria, IMI is used to request and share information from other Member States with an official one-month deadline for inspections. However, delays often occur due to complications such as employers withholding details. Internal

⁵⁹ As mentioned in section 2.3 above, on 1 January 2025, new legislation has come into force in **Lithuania** which introduces a 6-months waiting period before TWAs that have been removed from the list can request to be included again.



cooperation with other authorities can be challenging, especially with tax authorities. For Bulgaria, receiving an IMI request implies that an official investigation has to be conducted, which explains the delays. For example: suppose the IMI request concerns a letterbox company with an address located far away from the labour inspectorate's office. In these cases, the General labour inspectorate Executive Agency will have to ask the labour inspectorate in the district where the company is formally established to conduct an investigation, and for this, one month may pass before an answer that can be forwarded to the host country may be received. Inspections on companies that show red flags and raise suspicion of a letterbox company can be very slow to complete due to the lack of contact with the owner of the said company or an authorized person to represent the company. Therefore, this deadline can be extended via a formal report of the situation. Often, cooperation is required from the national revenue agency, as well as the local police authorities who have the jurisdiction to seek out the person listed as the owner of the company. In the worst-case scenario, the so-called owner is a strawman, who cannot provide further information on the letterbox company. Only then it is considered that all the means to reach out to the company have been completely expended. With this in mind, the labour inspector can officially close the inspection. If deemed necessary, the local police can begin an investigation of their own, and the General labour Inspectorate Executive Agency can cooperate by providing all the collected data on the letterbox company.

- Also in **Malta**, delays are often caused when information is required from other authorities. For instance, the Maltese tax authorities often tend to be very cautious when it comes to providing information. In particular, IMI requests for information on road transport often take a lot of time to handle, as they require coordination with national transport authorities, involving official request procedures and meetings. A case in point: A Danish request to Malta involved more than payslips and timesheets, namely also tachograph information. Malta had to ask the transport authority by way of an official request. This procedure took very long, and everything was processed in a very formal manner.
- In **Poland**, the labour inspectorate can process and handle IMI requests smoothly if the question asked can be answered with data to which the labour inspectorate itself has direct access and thus can verify without the help of other Polish authorities. However, delays arise when IMI requests are made to the Polish labour inspectorate that must be answered using data held by other national authorities and not by the Polish Labor Inspectorate itself. In such cases the labour inspectorate can only give provisional answers to the IMI request made by the host country and it has to start a formal investigation request for instance to the Polish tax or social security authority (ZUS). For Polish authorities, it is insufficient if in the request the host state provides only a first name and last name of a worker, since they need ID or passport number and birth date.

Key take-aways: Challenges regarding circumvention of regulation

A significant challenge identified during the PLD relates to the varying competences for inspections and the willingness to cooperate across different entities, especially in obtaining information from tax and immigration authorities. This issue underscores the need for improved interinstitutional cooperation both nationally and in cross-border cases. The following country examples were shared:



- ▶ In Poland, the division of competences per district complicates inspections, particularly when dealing with letterbox companies whose board members reside abroad, making information collection difficult. The low fines, around 400 euros, further diminish the deterrent effect.
- ▶ In the Netherlands, there is targeted interinstitutional cooperation to identify letterbox companies and distinguish them from TWAs, imposing fines for non-compliance and flagging repeat offenders. However, proving liability of user companies remains difficult.
- ▶ Denmark has institutionalised cooperation, with the Working Environment Authority (WEA) signalling issues falling under other authorities' mandates during its inspections. However, challenges remain in identifying the responsible party for sanctions.

Identifying the real employer is a primary issue leading to IMI requests, often involving letterbox companies and layered entities with difficulties to trace who the responsible employer really is. In that regard the following experiences were shared by the PLD participants:

- ▶ A key concern, which was discussed at length, is the lack of timely responses to IMI requests, with sending countries often unable to verify if a company is a letterbox company.
- ▶ Lithuania faces issues with companies failing to provide information due to small fines and the ease with which TWAs can be re-listed after removal.
- ▶ In Portugal and Bulgaria, similar challenges arise in collecting information and cooperating with other authorities, such as tax authorities. Poland also faces challenges when IMI requests involve data not directly accessible to labour inspectors. Both in Bulgaria and Poland, it is required to submit formal investigation requests to other authorities, which can cause considerable delays in answering IMI requests.
- ▶ Also in Malta, delays in answering IMI requests are often caused when information is required from other authorities. Often, this is due to cautious tax authorities and lengthy procedures for obtaining information from national transport authorities, particularly for road transport-related IMI requests.



4.0 Approaches and instruments to prevent and/or tackle TWAs non-compliance

Approaches and instruments to prevent, detect and tackle non-compliance include public enforcement mechanisms (such as labour inspection activities and appropriate financial and administrative penalties and sanctions), but also private law enforcement mechanisms (such as joint and several liability). Ensuring that the rights of local and transnational temporary agency workers are adequately protected requires first of all comprehensive cooperation (such as joint visits to the work sites and increased information exchange) at national level. In addition, social partners are sometimes involved in enforcement activities as well. Moreover, enforcers of the rights of posted temporary agency workers do not have the competence to act beyond their own national jurisdictions. Hence, cross-border cooperation and joint-inspections (bilateral and/or facilitated by ELA) plays a crucial role in effectively detecting and tackling TWA non-compliance as well.

During the PLD, some approaches and instruments that labour inspectorates use with the aim to prevent and/or tackle TWAs' non-compliance were exchanged and discussed. Below, subsequently, the monitoring and inspection of TWAs in relation to registration, authorisation and licensing systems is addressed (section 4.1), tools aiming to influence behaviour such as information campaigns, awareness-raising measures, quality mark systems and other 'nudging' approaches (section 4.2), the extent to which social partners are involved in preventing or tackling TWAs' non-compliance (section 4.3), and finally, approaches to facilitate (national and cross-border) cooperation and information exchange (section 4.4) .

4.1 Inspection and (ex-ante) monitoring of TWAs

Below, based on the information shared during the PLD, specific tools and approaches are mentioned which apply in the respective countries related to (ex-ante) monitoring and inspection of (cross-border) TWAs.

Box 5: Country-approaches regarding (ex-ante) monitoring of (cross-border) TWAs

- In Bulgaria, strict laws require TWAs to have a license and registration. Therefore, they need to meet all requirements, with inspections conducted if deadlines are missed. The Labour Code outlines the obligations of temporary work agencies and user enterprises, including salary payments, working conditions, and contract limitations to protect workers' rights. The importance of informing workers about their job details and prohibiting agencies from charging fees for their services is a key point of attention as well. Additionally, before TCNs can be posted, specific permits are required. Inspections involve formal reports and protocols, and any infringements are reported to competent institutions. During inspections, inspectors have access to the system of the revenue agency system and to lists of labour contracts (of people hired by the TWA). Also, they may check information from the migration authorities. If there are red flags, the inspectors will inspect the most suspicious companies. Next to that, there are inspections based on randomised selection. During the 3rd PLD meeting, from the national legislation enforced since 2011, the following common infringements and the sanctions process were highlighted. There are three major reasons for sanctions: violations of tax obligations, group insurance or bank guarantees, and operating without a license. Improvements made during the interim period until the 3rd PLD meeting, include the public register for TWAs (improved access to information in the public register).



- In Denmark, there is a registration system for Danish companies and the Register of Foreign Service Providers (RUT), where foreign companies have to register based on the Danish sector codes to classify business activities (based on NACE system⁶⁰). On the basis of these codes and other indicators (such as previous warnings), an automated risk-assessment system determines which companies to visit for inspections.
- In France, legislation for TWAs is very strict and rather effective with easy access to data of other authorities. Information is exchanged between authorities on a daily basis. Still, there are limitations in enforcement sometimes due to lack of information available in the shared databases.
- In Lithuania, each year inspectors include TWAs in their inspection plan.⁶¹ Employees can also file complaints through a pre-trial procedure under the auspices of the labour inspectorate. Consequently, the inspectors make a selection of TWAs that will be inspected annually. Therefore, if there are 350 TWAs on the list, they will check 50 entities, and the inspections are based on risk analysis of the listed TWAs.⁶² Inspectors check if they had previous labour violations/disputes, terminations for employment contracts between employee and employers, as well as check if they employ TCNs, and sometimes inspectors decide to go after tips of employees (as mentioned above). Outcomes of the targeted inspections of TWAs from 01/04/2024 to 31/05/2024, showed that 37% of those inspected committed violations. Many of these violations related to delayed or missing reports for employment of TCNs. Additionally, it was found that some companies operated under standard employment contracts, omitting essential protective provisions for temporary agency workers e.g. regarding the agency worker's consent to work under the assignment to the user company, and wage for the period between assignments.
- In Malta, the scope of the legislation that is in place since April 2024 covers not only temporary agency work under supervision of the user undertaking, but was expanded to include outsourcing where direction and control remains with the contractor providing the services. The Maltese legislator wanted to make sure that all these arrangements were regulated, therefore both situations were included in the updated definition. Regarding cooperation between authorities, DIER mostly works with JobPlus (work permits) and Identita (residence permits) and with the police. The interinstitutional cooperation is included in the new legal framework. DIER uses information from the police, for instance on human trafficking when checking due diligence obligations of the competent (fit and proper) person. This information is necessary for licensing decisions for TWAs. To tackle strategies of rather paying fines than comply, the deterrence is now enhanced: if the TWA operates without license the fine is between 25.000 and 30.000 euro.
- In the Netherlands, while there are no specific prerequisites to establish a TWA, companies must register and use accurate economic activity codes. These codes are based on the NACE system. Violations on accurate classification could result in fines. Moreover, a dedicated unit within the Netherlands Labour Authority (NLA) conducts risk analyses and engages TWAs to ensure compliance with labour laws. Regular inspections focus on common violations, such as document falsification issues regarding TCNs. When there are signals of wrongdoing, NLA inspectors go on site to check for compliance with labour laws, such as minimum wage and work permits. Once inspectors are on the

⁶⁰ The NACE system provides statistical classification of economic activities in the European Union.

⁶¹ Targeted inspections to be taken in [Lithuania](#) in Q2, 2025 (50 entities): 25 risky temporary work agencies; 25 risky users of temporary work. Part of the inspection plan is also to contact their ELA NLO in order to arrange and conclude joint inspections in 2025 (see also section 4.4 below) and to issue a preventive letter to temporary work agencies (see also section 4.2 below).

⁶² For this analysis certain criteria are used, such as the remuneration of the employees for instance, based on data received from the social insurance authorities.



user company's premises, they lock everything down and question all those present. If TWAs refuse to cooperate with the NLA, for instance, by failing to provide requested information, inspectors can impose fines without needing extensive proof of non-compliance.

- In Poland, where TWAs must be listed in a public register, labour inspectorates conduct inspections based on annual inspection plans. For many years the focus in these plans has been on the TWAs.⁶³ As an example, for the Gdansk District Labour Inspectorate, last year 40 inspections were scheduled in TWAs. The preparation for these inspections started with browsing the online register of TWAs; in this manner new names in the list could be identified and known names of directors, board members and shareholders could be checked. On the basis of the information gathered from the online register, it is decided where to conduct the 40 planned inspections.⁶⁴ In addition, inspections are also conducted based on official complaints filed by workers about employers with the labour inspectorate. Labour inspectors do not have direct access to databases of relevant information collected by other agencies, but cooperation with these other agencies provides valuable information on suspect companies. Each year labour inspectors receive information on the number of work permits issued for posting, TWAs, etc. This information is very useful for targeting inspections, increasing efficiency.
- In Portugal, the Employment Institute (IEFP) authorizes TWAs, i.e., IEFP is responsible for licensing and monitoring the activities of TWAs. The IEFP organises this register and identifies licensed companies, and those in which the suspension of activity occurs at the request of the company, expiration, termination, revocation of the license, suspension of activity due to non-compliance or application of an additional sanction. For each TWA, the full name, domicile or registered office and license number is indicated. The national register of TWAs is available electronically for public access. The labour inspectors from ACT do not have access to up-to-date information on TWAs cancellations processes, but only to the information of the National register of temporary work agencies.
- In Romania, regarding cross-border activities, TWAs are required to submit periodic reports to the labour inspectorate with data on the nationality, gender, age etc. of (TCN) workers posted abroad. Furthermore, as part of a national campaign week (see also section 4.2 below) in Autumn 2024, verification has taken place of the users (beneficiaries) factual situation with that presented by the temporary work agencies. In that regard several documents were verified.⁶⁵ The controls focused on the way in which the legal provisions in the field of labour relations are respected, especially with regard to the operating conditions and the authorization procedure of TWAs. The following results were obtained: number of ongoing supply contracts: 1014. Number of temporary work contracts in execution: 5953 of which: with foreign workers: 464. Number of sanctions applied: 76 of which: 44 fines; 32

⁶³ In [Poland](#), inspections are carried out as planned tasks and are also intended to consider the validity of complaints from employees or people using the services of (most often) employment agencies. In addition, they are initiated by notifications of other bodies or institutions or suspicion of violation of regulations, including in entities selected as part of mass media monitoring, among others. Elements e.g.: The legality of conducting business (having an entry in the KRAZ register); Charging fees prohibited by law, or the use of discriminatory practices in published advertisements and job offers, and the correctness of marking advertisements with the number of the entry in the register or offers for temporary work as "temporary employment offers".

⁶⁴ As a follow-up, each district labour inspectorate in [Poland](#) prepares a report on all inspections carried out at TWA in a given year. Then, the chief labour inspectorate prepares a comprehensive report based on these reports. Based on the document prepared in this way, the labour inspectorate (SLI) will be able to correctly diagnose new trends and issues on the Polish labour market related to compliance with the law by agencies. On this basis, the inspectorate can also identify entire industries in which the law is most often broken, thanks to which labour inspectors will know which entities are best selected for inspection.

⁶⁵ Documents that are verified in [Romania](#) include: (1) provision contracts; (2) temporary employment contracts; (3) the collective attendance sheets and (4) the primary documents regarding the working time prepared by the user (beneficiary) and which are the basis for the preparation of the record of the actual working time provided by the temporary employees; (5) the evidence of the establishment of salary rights or other official documents that constitute evidence of the establishment and granting of the salary rights due to employees.



warnings. The total value of the fines applied: approximately 45,460 euros.⁶⁶ In order to remedy the deficiencies found, mandatory measures were ordered, with specific deadlines. The labour inspectors will follow the implementation of the ordered measures, at the deadlines, established in the control documents.

Key take-aways: variety of monitoring and inspection approaches

With regard to inspection and (ex-ante) monitoring of TWAs, there is large variety among the countries represented in the PLD. Although Bulgaria requires TWAs to be licensed and registered, and Lithuania and Poland only mandate TWAs to be publicly registered, some common approaches and instruments were mentioned, such as annual inspection plans in combination with inspections triggered by employee complaints or missed reporting deadlines, as well as inspections based on randomised selection and risk analysis. Risk analysis to prioritize inspections, is also used as a tool by the competent authorities in Denmark and the Netherlands, two countries which have lenient TWA registration systems in common. Romania's labour inspectorate focuses only on ex-post compliance checks and on cross-border activities of the small amount of TWAs established in its country. France maintains stringent TWA regulations, but enforcement can be hampered by non-available data. In Portugal, interinstitutional cooperation is an issue with the ACT lacking real-time access to information regarding license cancellations as another national authority oversees this. In contrast, Malta has recently embraced a comprehensive approach, expanding its legislation to cover both temporary agency work and outsourcing, including interinstitutional cooperation in the legal framework and significant fines to deter non-compliance.

Below, the key take-aways are listed per country:

- ▶ In Bulgaria, TWAs must be licensed and registered, adhering to strict Labour Code requirements that ensure proper salary payments and working conditions. Inspections are triggered by missed deadlines or red flags. In addition to that, there are inspections based on randomised selection. Common infringements concern evasion of tax obligations, group insurance or bank guarantees and operating without a licence.
- ▶ Denmark employs a registration system for both local and foreign companies, utilising an automated risk-assessment tool to prioritise inspections based on sector codes and prior infractions. Public reporting of violations is encouraged, enhancing accountability.
- ▶ France maintains stringent TWA regulations that facilitate daily data-sharing among authorities; however, enforcement can be hampered due to non-available data in the shared databases.
- ▶ Lithuania's annual inspection plan targets TWAs based on risk analysis, with inspectors evaluating previous violations and employee remuneration data. Recent inspections reveal, in particular, non-compliance with TCN employment reporting rules and non-compliance with specific protective

⁶⁶ The following violations of the provisions of the labour legislation in [Romania](#) were detected: 1) Hiring people for the purpose of performing temporary work assignments for the benefit and at the request of a user (beneficiary), by unauthorized legal entities; 2) Non-compliance for temporary employees with the basic work and employment conditions regarding the duration of working time, additional work, daily and weekly rest, night work, holidays and public holidays and the applicable salary, during the temporary work assignment, in relation to the user's employees; 3) Non-compliance with the obligation of the temporary work agencies to communicate, during the validity period of the operating authorization, to the territorial agency for social benefits within the scope of which he established his registered office, any change regarding the name, headquarters, establishment of sub units without legal personality, within of 30 calendar days from the date of their production; 4) Non-compliance with the provisions regarding the electronic Employee Record Register.



provisions for agency workers, such as their consent to work under the assignment with the user company and continuation of wage payment for the period between assignments.

- ▶ Malta has recently expanded its legislation to encompass both temporary agency work and outsourcing, ensuring that all arrangements are regulated under the new legal framework. Inter-institutional cooperation is included in this legal framework: The Department of Industrial and Employment Relations (DIER) collaborates with agencies for work and residence permits, respectively, and utilises police data to enhance due diligence in licensing TWAs. To deter non-compliance, significant fines ranging from 5.000 euro to 30.000 euro are imposed on unlicensed operations.
- ▶ In the Netherlands, while there are no specific prerequisites to establish a TWA, companies must register and use accurate economic activity codes. A dedicated unit within the Netherlands Labour Authority (NLA) conducts risk analyses and engages TWAs to ensure compliance with labour laws. Regular inspections focus on common violations, such as document falsification issues regarding TCNs. If TWAs refuse to cooperate with the NLA, for instance, by failing to provide requested information, inspectors can impose fines without needing extensive proof of non-compliance.
- ▶ Poland mandates that TWAs be registered publicly, with labour inspectorates conducting inspections based on strategic annual plans and employee complaints. Preparations for inspections are initiated through various channels, including the online register of TWAs. Although the labour inspectors have no direct access to databases of other authorities, every year they receive useful information which helps to identify trends and areas of frequent legal violations, guiding future inspections.
- ▶ Portugal's Employment Institute (IEFP) oversees the licensing and monitoring of TWAs, maintaining a public electronic register. However, ACT's labour inspectors lack real-time access to information regarding licence cancellations, which affects their monitoring capabilities.
- ▶ In Romania, the labour inspectorate focuses on ex-post compliance checks, as the legal framework offers them no possibilities to monitor ex-ante requirements regarding the recruitment and working conditions of agency workers. Regarding their cross-border activities, TWAs established in Romania need to submit periodic reports to the labour inspectorate on personal details of (TCN) workers posted abroad. Recent inspections have taken place as part of a national campaign week focused on verifying the information presented by TWAs with the factual situation. Violations were revealed, including unauthorised hiring and non-compliance with labour conditions. The inspectors have issued fines and mandated corrective measures with established deadlines for compliance.

4.2 Behavioural, awareness-raising and 'nudging' approaches

During the PLD, examples of behavioural approaches were shared and discussed, such as quality marks or certification systems, information tools and campaigns, prevention letters etc.

Quality marks:

In **Malta**, TWAs can operate after obtaining a license, but they must be monitored and inspected to ensure compliance. An Inspections Coordination Office (ICO) has been set up which has **an annual mark system** in place. The ICO aims to minimise the burden of inspections on entities and individuals while ensuring that inspections are conducted transparently and effectively. Its objective is to raise compliance standards with laws



and regulations across establishments, thereby enhancing consumer confidence. The inspections coordinated by the ICO cover a wide range of areas relevant to the operation of businesses and are not limited solely to employment-related matters. **Companies must not only earn a quality mark at the beginning but are periodically re-examined.** This involves collaboration with inspectorates and the analysis of information by primary and secondary inspectors. From the outcome of the inspections carried out by the coordinating office, the labour inspectorate can learn the patterns; even though their remit is working conditions, they can also learn from signalled irregularities in other fields such as OSH. **Renewal of licenses hinges on inspection results, including assessments of workplace safety and social security.** The **quality mark** is a signal to the employer. With regard to employment conditions, breaches of the law that lead to charges and convictions, and which are not remedied, will result in the revocation of an employment agency licence. Additionally, breaches arising under other laws and regulations across a wide range of areas relevant to the operation of businesses may result in the failure to obtain the high standard of compliance certificate. The final mark earned through inspections signifies excellence. If applied well, employer organisations will promote it, and their members will try to obtain it and user companies will request it. Therefore, **this has potential to enhance the license's value.** Currently, 90 TWAs are licensed under Malta's new regime and another 90 are in the process, where the majority of these TWAs lack the quality mark, as they have not been inspected by the **Inspections Coordination Office** yet. The public database allows competitors to track others' progress, potentially pushing them to go for the quality mark as well. Achieving a **quality mark** requires an 80 out of 100 score, **tailored to specific sectors** such as restaurants and elderly care facilities. Additionally, it is to be noted that Malta operates on sectoral laws rather than collective agreements, with presumptions that working people have employee status in these sectors. Moreover, adjustments have been made to accommodate criteria and tailor them to the unique challenges of the digital economy.

In the **Netherlands**, there is a **quality mark for TWAs that user undertakings can check in a public list.** During inspections, the inspectorate may ask the user company whether they are working with a **certified TWA** indeed.

Information tools and campaigns:

In **Romania**, **campaigns of 1 week are targeted on TWAs every year.** These were already organised 2 or 3 times by the labour inspectorate. The campaign objectives are about raising awareness, namely (1) of TWAs that they need to comply with the applicable legal provisions, (2) of users (beneficiaries) and temporary agency employees regarding the need to comply with the applicable legal provisions. Next to that, the aim is also to raise awareness about the negative social and economic consequences that derive from non-compliance by TWAs and user companies and to help reduce this. As part of the campaign week, a verification of compliance of TWAs also takes place (see section 4.1 above).

In **Portugal**, **various information materials have been updated recently relating to** the rights and duties of workers wishing to work in Portugal (information translated into various languages), as well as information brochures dedicated to Temporary Work. **These are all available on the ACT website.**⁶⁷ In addition, FAQs on these issues are available, as well as various information service channels (telephone, electronic mail, in-person assistance,...).

Prevention letters:

⁶⁷ See:

https://portal.act.gov.pt/AnexosPDF/Documenta%C3%A7%C3%A3o/Brochuras.%20folhetos%20e%20cartazes/Folhetos/Rela%C3%A7%C3%B5es%20de%20Trabalho/AF_monofolha_DireitoseDeveres_WEB.pdf and:
https://portal.act.gov.pt/AnexosPDF/Documenta%C3%A7%C3%A3o/Brochuras.%20folhetos%20e%20cartazes/Folhetos/Rela%C3%A7%C3%B5es%20de%20Trabalho/AF_monofolha_DireitoseDeveres_WEB.pdf and:
https://portal.act.gov.pt/AnexosPDF/Documenta%C3%A7%C3%A3o/Brochuras.%20folhetos%20e%20cartazes/Folhetos/Rela%C3%A7%C3%B5es%20de%20Trabalho/diptico_acolhimentoTrabalhadores_WEB.pdf



In **Lithuania**, **prevention letters are issued** every year to TWAs and other labour intermediaries (also in case they post workers abroad). These letters make TWAs aware that inspections will take place in their sector and **remind the TWAs on the employment regulations** they have to abide by. However, TWAs are not informed in advance whether or not they will actually be inspected. This means that some TWAs eventually will be inspected while others are not. Although there is no quantitative evidence on the impact of this strategy, it was highlighted during the PLD meeting that this approach **helps promote compliance with laws and ensures timely document submission by the employers**. In other sectors this is done as well. In 2024, the preventive letters were sent to 50 TWAs. Of these, 23 entities were inspected, revealing one case of non-compliance, which suggests this method is effective.

In the **Netherlands**, the behaviour of TWAs is also influenced by interventions. Especially if it is known that TWAs work with TCNs, **employer associations** are approached and asked to share their information with these TWAs in order to stimulate them to point out to their members their legal requirements.

‘Carrots and sticks’ intervention strategies:

In **Malta**, in the context of making companies familiar with the still very new licensing system, DIER aims to change company behaviour by working proactively and cooperatively, **encouraging TWAs to come forward for analysis of their business models**. Some TWAs may not realise their mistakes, so inspectors provide individual meetings to align their business models with the legal framework requirements.

As enforcement of employment law falls under **criminal law** in Malta, even in cases of insufficient documentation, companies need criminal lawyers. This nudges them to settle the case with the inspectorate out of court, since if the labour inspectorate wants to press charges, these will be issued by the police. Inspectors can use this **as leverage for reaching out-of-court settlements**. That is also in the interest of workers, as guarantees that they get their back-payments are included in these settlements.

To **tackle strategies of rather paying fines than comply**, the deterrence is now enhanced in Malta: if the TWA operates without license, the fine is between 25.000 and 30.000 euro. For other violations the fines have gone up to 5000 – 7000 euro. Some 30 outsourcing companies were given a month to remedy identified violations of the law. Afterwards, only 2 of these companies still had to fulfil certain requirements.

In the **Netherlands**, reports may be filed for law abuses by the NLA, leading to fines or criminal investigations (in the latter situation, the case is handed over to the prosecutor). Usually, the **labour inspectorate uses fines in proportion**. First, the inspectors oblige the company to pay the right wage, after a certain period they return to the company and check if all orders have been correctly followed by the company and if not, an additional fine is given. Overall, inspectors can go back to inspect the company at any time they see fit, but usually they do so shortly after the first inspection because there is a higher chance that the workers are still in the Netherlands.

Measures that impact non-compliant TWAs immediately:

In **France**, the obligation to pay social contributions is strengthened by **tools like freezing bank accounts during investigation to ensure compliance and not letting the money go to another Member State**.

In the **Netherlands**, the Labour inspectorate (NLA) utilises a dual-unit inspection model, addressing health and safety (H&S) alongside labour rights. **During inspections in high-risk sectors, both units** check simultaneously if legal requirements are met. In case irregularities are discovered, this can result in **TWAs being stopped to operate immediately**, as the H&S unit has this competence.

Measures (also) targeting the user company:



In **France**, inspectors can also **fine the foreign TWA and ask the user company to pay** (based on financial solidarity).

The tax authorities in the **Netherlands** manage a so-called blocked account system (G-account). The **user companies are obliged to pay part of the invoice they get from TWAs on that blocked account**. Tax authorities can collect taxes and social security contributions from these blocked accounts. **TWAs are not allowed to withdraw money from their blocked accounts**. Any unauthorised withdrawal triggers a red flag and enforcement action will follow swiftly. There is to some extent **co-responsibility or liability for the user company regarding pay as well**. It is easier for the labour inspectorate to get the correct information there as the user undertakings are established in the Netherlands.

In **Portugal**, recently, a big change was implemented in the legislation regarding social security. To foster the selection of compliant TWAs by user companies, the **TWAs now have to report their compliance with social security obligations to the user companies**.

Another good development under current law in the **Netherlands** is that more frequently, investigation takes place in the case of **suspicious cash flows** (based on “Bibop” legislation). **Information can be shared so that user companies can use this to prevent working with mala fide TWAs**.

Naming and shaming:

In the **Netherlands**, **inspection results are partly made public, naming and shaming employers** for negative practices like human trafficking. Other countries have similar systems, for instance in **France**, but here such naming and shaming is only possible for criminal offenses (after conviction).

Influencing the general public and the political debate:

In the **Netherlands**, the labour inspectorate publishes annual reports to influence societal and political debate, sometimes suggesting policy changes, pointing out what should be altered to improve the effectiveness of monitoring and enforcement efforts. These reports are discussed in parliamentary committees and sometimes highly impact the public perception and debate.

Key take-aways: variety of behavioural and nudging approaches

During the PLD, examples of various behavioural, awareness-raising, and 'nudging' strategies were shared. The approaches discussed include quality marks (MT, NL), information materials and campaigns (PT, RO), prevention letters (LT), and several intervention strategies targeting TWAs behaviour (FR, NL, PT).

- In Malta, a quality mark system mandates that TWAs undergo periodic inspections to maintain their licences. From the outcomes, the labour inspectors can learn, even though their remit is working conditions, they can also learn from signalled irregularities in other fields such as workplace safety standards. Currently, 90 TWAs are licensed, and another 90 are in the process. The publicly accessible database fosters competition for quality marks, which require a minimum score of 80/100. In the context of the still very new licensing system, proactive support is offered to TWAs for analysis and help to align their business with the legal requirements. As enforcement of employment law falls under criminal law, this nudges companies to settle cases with the inspectorate out of court. By imposing significant fines for non-compliance, strategies of rather paying fines than complying with legal standards are tackled.



- ▶ In Romania, annual campaigns raise awareness of legal obligations for TWAs and their clients. As part of the campaign week, a verification of compliance of TWAs also takes place.
- ▶ Portugal has recently updated various information materials. These multilingual resources to inform workers of their rights are all available on the ACT website.
- ▶ In Lithuania, prevention letters are issued to make TWAs aware that inspections will take place in their sector and to update the TWAs on legal requirements. This preventive approach helps promote compliance with laws and ensures timely document submission by TWAs.
- ▶ In the Netherlands, there is a voluntary quality mark system for TWAs that user undertakings can check in a publicly available list. Moreover, the NLA utilises a dual-unit inspection model, addressing health and safety (H&S) alongside labour rights. If irregularities are discovered during on-site inspections, this can result in TWAs being stopped from operating immediately, as the H&S unit has this competence. A blocked account system is in place to ensure TWA compliance with tax and social security contributions. User companies are obliged to pay part of the invoice of TWAs into that blocked account.
- ▶ In France, the obligation to pay social contributions is strengthened by tools like freezing bank accounts during investigations.
- ▶ In Portugal, to foster the selection of compliant TWAs by user companies, a recent requirement was introduced for TWAs to report their compliance with social security contributions to the user companies.
- ▶ Naming and shaming practices in the Netherlands and France serve to publicly identify non-compliant entities, influencing both public perception and political discourse.

4.3 The role of social partners in preventing and tackling TWAs' non-compliance

As already mentioned above in section 2.2, next to national authorities, social partners are also involved in enforcement in the Member States. Moreover, trade unions may also be active in representing (posted) workers in proceedings and in receiving complaints from (posted) workers. Additionally, social partners often cooperate with national authorities on many issues.⁶⁸ During the PLD the following was shared with regard to the role of social partners in preventing and tackling non-compliance by TWAs.

In some of the participating countries in the PLD, the social partners play a direct and/or indirect role in preventing and tackling TWAs non-compliance (DK, FR,⁶⁹ MT, NL).

⁶⁸ This is discussed in more detail in the European Commission's *Study supporting the Monitoring of the Posting of Workers Directive*, Brussels 2024, section 7.2 (Case study on promising practices involving social partners).

⁶⁹ In [France](#), a collective agreement exists for temporary agency workers with a good informative website. As a social security inspectors, the participant does not know whether the labour inspectorate has frequent contact with social partners.



Box 6: Examples of systems with active involvement of social partners

- ▶ In Denmark, not only individual workers but also social partners can send a complaint to the working environment authority (WEA). During inspections, it is not communicated whether a complaint has been submitted to the WEA, as this information is kept confidential to protect the complainant. Also, Danish inspectors cannot give direct information stemming from their inspections to the social partners. However, the WEA has a meeting with the social partners at least twice a year, as well as regular meetings where they may invite the tax agency and the police to discuss their findings. However, these meetings are not specifically geared at TWAs.⁷⁰ Also, the social partners are responsible themselves for monitoring and enforcement regarding fair wages and other labour standards in collective agreements for workers, even for foreign workers. If the worker is not a member of a trade union, but her/his employer is organized in an employer association or is itself party to the collective bargaining agreement, s/he is still entitled to the agreed wage level.
- ▶ In Malta, social partners play a crucial role in monitoring the situation, particularly regarding TCN workers. The labour inspectorate had some cases where TWAs had to be made aware (via trade unions) of abuses at user companies. Therefore, communication with social partners is deemed essential. Also, there is a tripartite labour relations board with representatives from the largest employees' unions, employers, and government. Although this board meets (on a monthly basis) primarily to discuss legislative proposals e.g. on EU directives that need to be implemented, sometimes cases are brought to the table where there are suspicions of precarious employment.
- ▶ In the Netherlands, trade unions but also civic organisations such as the Fair Work foundation are essential and labour inspectors are in contact with them on a quarterly basis. Even though the labour inspectors cannot share specific sensitive information with these entities, they can provide the labour inspectorate with signals of potential violations. They can signal for instance 'modern slavery' work where TWAs may be involved in. Also, the labour authority is obligated to investigate when requested by unions, resulting in around 4-5 investigations on TWAs annually. Despite the lenient TWA policy in the Netherlands, social partners are very active in the sector themselves, ensuring compliance with collective agreements in the TWA sector by their foundation SNCU, which include significant fines for violations. An issue is that access to workplaces (of user companies) for unions is restricted, creating challenges for monitoring and enforcement. Also, as stressed by the participant from Dutch trade union FNV, although SNCU is successful when it comes to lawsuits won and sometimes even holds business owners personally responsible for underpayment, such actions are costly and time-consuming. Additionally, although personal accountability for underpayment is necessary and impactful, enforcement can be hindered by bankruptcies, where in such cases, it could be difficult to trace the legally responsible person since often times, he/she would have already left the country.

⁷⁰ As a follow-up to the PLD, for one of the upcoming meetings with the social partners in [Denmark](#), the WEA will consider to initiate a discussion on how to improve collaboration regarding the often vulnerable temporary agency workers, especially in the construction sector. Collaboration is key to make sure that the workers know the rules and their rights and are not just sent back to their country in case of abuses or if they get injured. Closer collaboration with social partners might lead to a better working environment for the TWAs' workers, which is in line with the key responsibility of the WEA (namely to ensure that workers have a safe working environment and therefore worker protection is a top priority).



In Portugal, there is no direct participation of social partners, but they can request intervention, lodge complaints, and represent their members/associates. The social partners also have the right to be informed following inspections in workplaces. Particularly in the construction sector,⁷¹ the labour inspectorate ACT has invited the social partners to seminars where they had the opportunity to share knowledge and information.⁷² Labour inspectors are not competent on licensing issues for TWAs, therefore, they do not have contact with employer associations.

In the other participating countries in the PLD, there are often formal possibilities for social partners to be involved and to e.g. lodge complaints, but in practice they do not play any significant role (BU, LT, PL, RO). In **Bulgaria**, social partners are necessarily involved in the process of passing laws and ordinances in the sphere of labour and social law. This is related to the one of the main principles encoded in the Labour Code - the social dialogue and its promotion. Also, **the social partners in Bulgaria can notify the labour inspectorate of violations of labour and social rights**. According to a provision in the Labour code, trade union organisations shall have the power to notify controlling bodies about violations of labour legislation, and to demand enforcement of administrative sanctions against the offenders. They have the possibility to voice their opinion on certain topics if they wish to do so. **However, inspectors have no specific examples regarding TWAs** as they are mainly a sending country, and therefore there is little need for cooperation with social partners on TWA arrangements.

In **Lithuania**, **trade unions can notify the inspectorate about possible violations**, however, they do not play a major role in inspections. Similarly to Malta and Bulgaria, a tripartite committee exists where employers, unions, and government representatives meet to discuss legislative proposals, however the labour inspectorate is not a member of this. **There is also a TWA employer association** which has 8-12 active members who are lobbying and promoting their activities, having a total of 341 TWAs registered.

In **Poland**, in principle, in the course of carrying out inspection activities, the **labour inspectorate cooperates with trade unions, staff of self-government bodies, workers' councils and with the social labour inspection**. The cooperation consists in particular of: 1) informing the other stakeholders about the subject matter and scope of the inspection; 2) analyzing the submitted comments and observations; 3) informing the other stakeholders about the inspection results and decisions made; 4) providing them with advice and information in the field of labour law. However, despite the great historic role of the strong and free trade union Solidarnosc in Gdansk in the 1980s, **unfortunately there are nowadays not many trade unions active**. In Poland, less than 10% are members of trade unions, mostly in the energy sector and in education. There are **no unions specifically for temporary agency workers**. In **2025**, the aim is to take **action to initiate cooperation with social partners** and share the problems of temporary workers with them, so they may inform the Labour Inspectorate on cases of breaking the law/workers' rights.⁷³ Inspectors will be able to provide trade union organizations with promotional and educational materials increasing legal awareness of temporary (agency) work.

⁷¹ During the interim period before the 3rd meeting of the PLD, with the support of ELA, a joint meeting was held with labour mobility experts, from the labour and social security inspectorates of Spain and **Portugal**. The meeting allowed for detailed analysis and discussion of the legislation of both countries, particularly in the **construction sector**. At this meeting, also the **social partners** in the construction sector of the two countries came together to discuss and exchange ideas on initiatives and topics for collaboration.

⁷² A seminar/webinar at national level will be held in the first quarter of 2025. It will cover topics such as subcontracting chains; third-country nationals; temporary work; remuneration and other allowances; working conditions for posted workers (accidents at work and OSH). It will involve social partners from sectors such as agriculture and construction, as well as the participation of other national authorities in **Portugal** with competences in these matters.

⁷³ In the beginning of 2025, a training for labour inspectors on the regulations regarding employment agencies in **Poland** is planned, during which inspectors will be instructed to raise issues related to the functioning of temporary work, in particular at workplaces, during meetings with trade unions.



Also in **Romania**, **social partners can notify the labour inspectorate of violations of social rights**. However, **trade unions do not have many members**. Additionally, the amount of TWAs and temporary agency workers in Romania is very small.

Key take-aways: variety of country models regarding the role of social partners

As discussed during the PLD, in some of the participating countries in the PLD, the social partners, in addition to possible consultative roles and involvement in tripartite bodies, play a direct role alongside national authorities in preventing and tackling TWAs' non-compliance (DK, MT, NL). On the one hand, especially trade unions are important for raising awareness and providing information to workers. Another role is their support in signalling wrongdoings and lodging complaints. Country examples were given during the PLD of active involvement of social partners in monitoring compliance and of trade unions supporting or representing workers to enforce their rights.

- For instance, in Denmark, both workers and social partners can file complaints with the Working Environment Authority (WEA), while social partners are responsible for monitoring and enforcing compliance with collectively bargained wage standards and other working conditions, including for posted workers. Danish inspectors cannot give direct information stemming from their inspections to the social partners. However, they have a meeting with them at least twice a year, as well as regular meetings where they may invite the tax agency and the police to discuss their findings.
- In Malta, the labour inspectorate is in frequent contact with social partners. Sometimes abuses are signalled via trade unions. Moreover, Malta's tripartite labour relations board facilitates dialogue among unions, employers, and the government. Although the labour relations board has primarily policy-oriented responsibilities, sometimes, when there are suspicions of precarious employment, the issue is discussed there as well.
- In the Netherlands, even though the labour inspectors cannot share specific sensitive information with them, social partners can provide the labour inspectorate with signals of potential violations. Additionally, the labour authority is obligated to investigate when requested by trade unions, resulting in around 4-5 investigations into TWAs annually. Social partners are very active in ensuring compliance with collective agreements in the TWA sector through their foundation, SNCU, which imposes significant fines for violations. SNCU is successful in winning lawsuits and sometimes holds business owners personally responsible for underpayment. At the same time, such actions are costly and time-consuming. Furthermore, although personal accountability for underpayment is necessary and impactful, enforcement can be hindered by bankruptcies, or in some cases it is difficult to trace the legally responsible person.

With regard to other participating countries in the PLD:

In Portugal, there is no direct participation of social partners, but they can request intervention, lodge complaints, and represent their members. Social partners also have the right to be informed following inspections in workplaces.

In the remaining countries involvement of social partners is limited. While legal frameworks exist for reporting violations by social partners, active participation in enforcement is minimal in Bulgaria, Lithuania,



Poland and Romania, as trade union membership is mostly rather low, hindering their ability to effectively represent workers. Employment associations are not prevalent either.

4.4 Facilitating cooperation and information exchange

During the PLD, examples of tools, approaches and best practices were shared, used in the represented countries to facilitate cooperation and information exchange between enforcement authorities, in both national and cross-border contexts. When agency workers are posted, it is crucial to ensure basic working conditions are met with the help of smooth information exchange, as different Member States have varying conditions, and allowances are not always included in the package. Also, authorities from different Member States cooperate through tools such as ELA's assistance, IMI, and cross border inspections to determine if a TWA is genuinely established in the sending country (see also section 3.4 above). Partly as a follow-up to the discussion on challenges with regard to interinstitutional cooperation and IMI-requests (see section 3.5 above), suggestions for further improvement were discussed.

Interinstitutional cooperation

In Malta, national level cooperation is sometimes challenging, however, efforts are being made to facilitate interinstitutional cooperation. Recently, information sharing and dialogue with other authorities have been facilitated through **two seminars encouraging open discussions** in order to identify areas for improvement following the implementation of laws they will soon organise another seminar. Despite challenges posed by **GDPR**, DIER has cooperation agreements with Jobsplus, and company registries.

France reports **well-functioning interinstitutional cooperation and data-sharing**. There is daily information exchange with other inspectorates within their country and **no formal requests are necessary** since requests are done informally in a very effective way. However, in cases of real criminal organisations which are difficult to deal with, only cross-border cooperation helps in that regard.

In **Denmark**, on the basis of their register for Danish companies and for foreign companies (RUT), the Working Environment Authority (WEA) conducts inspections and checks the working environment of the investigated companies. In addition to planned inspections based on RUT, the WEA also initiates controls based on its own observations, such as unannounced 'drive-by visits' to construction sites that appear to warrant inspection. **If THE WEA comes across any specific information that could be useful to the Danish tax agency or other authorities, these authorities will be informed.** Also, WEA has regular meetings (once every third week) with the police, tax authority, and the authority who makes the registration, and they conduct annual joint inspections with police and tax authorities. Moreover, WEA improved **communication techniques to facilitate the information exchange with other authorities, such as using a safe system called e-Boks**. In that system, the authorities may put in a **keyword** in the disclosure of information **to guarantee accurate information sharing among authorities**, such as the tax and police offices. For instance, if they type 'social dumping', then the receiver knows more quickly how this request must be followed up. Also, they have a new collaboration among tax, work environment, and police representatives to investigate specific cases, following the example of Norway.

Similarly, in the **Netherlands**, **joint teams from different authorities collaborate on exchanging information to investigate TWAs and user companies**. There are also joint inspection teams specifically focusing on certain **high-risk sectors**. During their joint inspections, inspectors can quickly exchange information. To avoid confidentiality and data-protection problems in relation to the **GDPR**, a covenant has been signed between national authorities to facilitate mutual information and data exchange on individuals and companies for legitimate



enforcement purposes. In particular, cooperation with tax authorities is very important because they collect a lot of relevant information and also gather international information. Cooperation has also been established with migration authorities to exchange data several times a year. With these mutual cooperation arrangements, great improvements have been achieved compared to the old situation, where authorities had to request information through formal requests.

In Romania, cooperation between the inspectorate and the police is well-established. This is particularly useful, for instance when verifying potentially fraudulent documentation.

In **Portugal**, the ACT experiences that **interinstitutional information exchange and cooperation** is complicated due to the fact that five entities are involved in the application and enforcement of TWA regulations. In practice, this may result in extended waiting time to receive information. Recently, actions were taken to improve internal cooperation by promoting/arranging an internal meeting with other national agencies.⁷⁴ Also the ACT is **developing AI tools for risk assessments in high-risk sectors** like the meat industry and construction, which are not implemented yet.

Bilateral agreements and other forms of multilateral cooperation⁷⁵

In **France**, social security inspectors have the ability to contact other countries under **bilateral agreements**, such as Portugal. Good cooperation is also in place with Spain, Belgium, Luxembourg and Germany on cross-border issues.

Portugal has **successful bilateral agreements** with France, Spain, Belgium and Luxembourg and has conducted joint inspections with Spain.⁷⁶ The bilateral agreement with France allows for comprehensive inspections followed by a post-inspection meeting to check gathered documents. The ACT aims to reinforce cooperation with other Member States as well by arranging bilateral and multilateral meetings with countries receiving posted workers from Portugal.⁷⁷

IMI-requests: Discussion on further improvement

In **Portugal**, cross-border joint inspections work better than national cooperation. Recently, a **document with information** on Portuguese legislation for temporary work agencies (TWAs) has been finished. The idea is to

⁷⁴ During the interim period before the 3rd meeting of the PLD, progress has been made with regard to improving the cooperation of ACT with the Attorney General's Office (PGR) in **Portugal**: a cooperation protocol was established, including technical cooperation through the sharing of knowledge and experience and relevant information related to labour law. Also, national or regional work and study meetings and other events and meetings will be held. Also, the cooperation with the Foreigners and Borders Services (AIMA) was fostered, by a first interinstitutional meeting, with the primary aim to create faster communication channels and to establish information-sharing protocols. Finally, with regard to a mission focusing on foreign workers, ACT is part of a taskforce of various authorities and police forces. If successful, this type of coordinated operation may be replicated on a more regular basis in the near future.

⁷⁵ In a recent ELA study, 60 bilateral and multilateral agreements in the area of EU labour mobility were identified and examined regarding their legal, empirical and operational dimensions. Currently, these agreements are not centrally deposited, registered or published. So, even though some EU legislation, such as Article 16 of Regulation (EC) No 883/2004 and Article 21 of Directive 2014/67/EU, obliges Member States to inform the European Commission of the conclusion of bilateral agreements and/or to make them 'generally available', there is no comprehensive overview and 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. See: European Labour Authority (2025), *Bilateral and multilateral agreements in the area of EU labour mobility*, p. 11.

⁷⁶ During the interim period before the 3rd meeting of the PLD, with the support of ELA, a joint meeting was held with labour mobility experts, from the labour and social security inspectorates of Spain and **Portugal**. The meeting allowed for detailed analysis and discussion of the legislation of both countries, particularly in the **construction sector**. The final aim is to create a guide (*vademecum*) that will serve as a reference for the inspectors of both countries. At this meeting, also the social partners in the construction sector of the two countries came together to discuss and exchange ideas on initiatives and topics for collaboration.

⁷⁷ During the interim period before the 3rd meeting of the PLD, the 3rd meeting of the reinforced multilateral cooperation between Spain, **France**, Italy and **Portugal** was held in Mallorca, with the support of ELA. In this cooperation both labour inspectorates and social security bodies of the four Member States are involved, with the purpose to identify issues and problems and to enhance effective protection of the rights of citizens who move and work across the territories of these countries.



share with colleagues from labour inspectorates in other Member States (to help in understanding what practices are legal in Portugal), subject to approval by a higher authority. The aim is to translate it into English and French.

Regarding cross-border collaboration e.g. to tackle the letterbox companies, **several participants stress the usefulness of joint inspections**, with information shared through the IMI system⁷⁸ and enhanced communication inter alia via ELA (e.g. BU, RO⁷⁹, LT⁸⁰).⁸¹

In the **Netherlands**, finding a **more informal manner of dealing with the information request could be helpful** in order for the waiting time to get information to be decreased especially in cases where investigations have already been conducted.⁸²

In **Malta**, if an IMI request that requires a lot of data is received, **the labour inspectorate first provides partial answers based on the data they have**. An informal meeting to explain the delay of information might also be held with the requesting parties. The labour inspectorate will then approach other authorities for the lacking data.⁸³ In **Bulgaria**, a similar approach is used regarding information requests from other Member States **concerning the posting of drivers: all the easily available information are given** to them, but for the lacking data, the time of response depends on the other agencies involved in monitoring road transport laws that have to be contacted.⁸⁴

Despite these helpful approaches to smoothen the information exchange, the **current IMI-system is slow**, resulting in long waiting times for information.

The **ELA representative** adds that national level inspectorates are sometimes not aware of **the obligatory character of IMI requests** and that they have to give this priority. Hence there is a **need to raise awareness** about the obligation to share information under IMI regulations. ELA also suggested to use the possibility to ask **assistance from the National Liaison Officer (NLO) in problematic cases**. This was confirmed by **Portugal**, evidenced by successful collaborations with Spain and France facilitated by NLOs. Also, from the **Netherlands** it was confirmed that 'escalating' via the NLOs can be helpful.⁸⁵

The joint conclusion is that there is a need to streamline the processes of requesting and obtaining information, both formally and informally.

⁷⁸ In the **Netherlands**, there are issues in this regard, experienced by the team for cross border inspections which joined an inspection in Italy, and needed information from the TWAs based in Italy. The experience was that it is rather inefficient that this exchange of information goes through IMI. It is on the agenda of the Dutch labour inspectorate to find a solution for this.

⁷⁹ In **Romania**, a joint inspection was held with the support of ELA in the interim period until the 3rd PLD meeting. However, there were no TWAs (established in Romania) involved.

⁸⁰ As part of the action plan for 2025, both the labour inspectorates of **Bulgaria** and of **Romania** plan to organise a joint inspection with the support of ELA on TWAs.

⁸¹ In the interim period preceding the 3rd meeting, the participant in the PLD from the **Netherlands** has promoted internally the use of targeted joint inspections with the help of ELA NLOs. The Dutch labour inspectorate has joined a team with other governmental authorities (such as Tax) and they are conducting cross-border inspections and joined the CJL more than before. Some online meetings were introduced to make easier the organisation of joint inspections. However, internally a cost issue arises when more joint inspections will take place. This is because the labour inspectors sent away reduce the home capacity out of the NL to other MSs.

⁸² In the interim period preceding the 3rd PLD meeting, the challenges experienced with requests they submit in the IMI system, were internally shared and discussed in the **Netherlands** Labour Inspectorate with the aim to also clarify/ streamline their own IMI questions, which includes e.g. how to enhance the processes of sending and receiving information in the IMI system.

⁸³ In 2025, the DIER aims to develop a report on which areas of the law can be improved on cross-border cooperation, in particular, based on the ideas from the PLD and from information seminars that will be organised for TWAs in **Malta**.

⁸⁴ In the interim period preceding the 3rd PLD meeting, the challenges regarding the IMI system, which helps streamline the inspection process and gather necessary information were internally discussed in **Bulgaria** (from the sending country perspective). Where possible, they aim to further streamline and explain their processes. Unfortunately, the planned joint inspection did not take place as none of the inspected companies had workers posted abroad.

⁸⁵ As part of the actions to be taken in 2025, the State Labour Inspectorate (SLI) in **Lithuania** plans to contact their ELA NLO in order to arrange and conclude joint inspections in 2025. In particular, the aim is to have discussions on assessing the risky enterprises that are sending temporary workers to other EU countries, and to identify the sending countries and risky entities and take joint inspections with ELA with the sending countries in 2025.



Key take-aways: cooperation and information exchange

During the PLD, participants shared ongoing efforts and best practices for enhancing cooperation and information exchange among enforcement authorities. Several rather successful interinstitutional cooperation frameworks (DK, FR, NL, RO) have been highlighted: France facilitates daily information sharing among national authorities without formal requests, while Denmark's WEA organizes meetings and joint inspections and improved its e-communication techniques. Also, the Netherlands has established joint teams to investigate TWAs and user companies, which significantly improved data exchange and reduced waiting times. Romania has well-established cooperation between the inspectorate and the police. On the other hand, Portugal faces challenges in smoothening cooperation due to multiple agencies involved in monitoring and enforcing TWA regulation. Malta tries to smoothen interinstitutional cooperation by agreements between authorities to tackle GDPR challenges..

Below, key take-aways are provided per country, starting with successful interinstitutional cooperation frameworks:

- ▶ In France, the system facilitates daily information sharing among national authorities without the need for formal requests.
- ▶ Denmark's WEA organises regular meetings and joint inspections involving multiple authorities. Moreover, the WEA improved communication techniques to facilitate the exchange of information with other authorities, such as using a safe system called e-Boks. In that system, the authorities may input a keyword in the disclosure of information to guarantee accurate information sharing among authorities, such as the tax and police offices. Also, the WEA has established a new collaboration with tax and police representatives to investigate specific cases, following the example of Norway.
- ▶ In the Netherlands, joint teams from various authorities have been established to investigate TWAs and user companies. Joint inspections significantly improve data exchange and reduce waiting times for information. Additionally, there is a covenant between authorities stating that they can exchange information about persons and companies amongst themselves, thus avoiding any objections based on GDPR.
- ▶ In Romania, cooperation between the inspectorate and the police is well-established. This is particularly useful, for instance, when verifying potentially fraudulent documentation.

Other country examples show that complexities in national interinstitutional cooperation persist:

- ▶ Particularly, in Portugal, where multiple agencies are involved in monitoring and enforcing TWA regulation, it remains difficult to smoothen cooperation in the national context. Recently, actions were taken by ACT to arrange an internal meeting with other national agencies. Also, ACT is developing AI tools for risk assessments in high-risk sectors like the meat industry and construction, which are not implemented yet.
- ▶ In Malta, authorities also face hurdles in smoothening interinstitutional cooperation. DIER has agreements with several other authorities to tackle challenges posed by the GDPR. Recently, information sharing and dialogue with other authorities have been facilitated through two seminars encouraging open discussions in order to identify areas for improvement.



Examples of successful bilateral agreements, with productive joint inspections, are provided by participants from France and Portugal. These agreements allow for comprehensive inspections involving labour and social security inspectorates, followed by post-inspection meetings.

Finally, key tools and practices were addressed during the PLD, such as the ELA's assistance and the IMI system, facilitating cross-border collaboration. In that regard, especially possibilities for improvement of cross-border information exchange through IMI were discussed by the PLD participants, including experiences to address long waiting times through partial answers, informal meetings, and seeking assistance from the National Liaison Officer. Finally, suggestions were given for ELA to raise awareness about the obligatory nature of IMI requests and to make and provide an overview of specific competences for each national authority to help sending requests directly to the appropriate counterpart.

- ▶ Regarding IMI requests, some practical approaches are implemented to address long waiting times: (1) by initially providing partial answers based on readily available data and/or arranging informal meetings to explain the delay in information, (2) by seeking assistance from the National Liaison Officer (NLO) in problematic cases.
- ▶ Suggestions were made for further improvement, such as raising awareness about the obligatory nature of IMI requests.⁸⁶
- ▶ Additionally, the varying competences of counterparts in other Member States sometimes cause difficulties. Therefore, it was deemed helpful to have an overview of the specific competences for each authority; this would help to send the IMI request directly to the appropriate counterpart.

⁸⁶ On the ELA-website some information about the IMI Prove programme can be found:
https://www.ela.europa.eu/sites/default/files/2022-06/ELA_Brochure_A4.pdf



5.0 Reflections and suggestions

The PLD participants highlighted both a variety of approaches and instruments to support and enforce compliance in TWAs and common challenges. The challenges include the lack of information and awareness and/or fear of retaliation among temporary agency workers and strategies by TWAs and/or user companies to circumvent legislation, for instance by using letterbox companies. After exploring and discussing the topic in greater depth, the participants identified (intended) actions to overcome monitoring and enforcement challenges, in particular with regard to interinstitutional and cross-border cooperation and information exchange via the IMI system and also with social partners.

In conclusion, the PLD underscores the importance of robust regulatory frameworks that foster compliance among TWAs to safeguard the rights of (posted) temporary agency workers, including TCNs. Promoting interinstitutional cooperation between national authorities and involving social partners is essential for improving the enforcement of labour standards and addressing the challenges faced by labour inspectorates vis-à-vis TWAs and their workers. Moreover, the discussions during the PLD highlighted the need for continuous monitoring and enforcement, and smooth interinstitutional information exchange between national authorities, for example, through easy access to relevant information via databases. Finally, a smooth and timely exchange of information and communication between labour authorities in a cross-border context, such as through IMI requests, is crucial to effectively tackle challenges related to compliance with posted temporary agency workers' rights across Europe.

After sharing the outcomes or progress made on actions undertaken in the interim period after the first two meetings, during the 3rd meeting the participants suggested approaches and instruments to support and enforce compliance in TWAs:

- ▶ Which Platform members can implement in their national practices;
- ▶ Where mutual learning at the Platform level could occur to prevent all authorities from having to reinvent the wheel, and;
- ▶ European Labour Authority (ELA) follow-up activities, in particular, related to cross-border activities of TWAs and the posting of temporary agency workers.

The following sections provide the joint suggestions of the participants based on the insights gathered during the PLD.

5.1 Suggestions for national authorities

The participants involved in the PLD suggest the following actions that can be implemented by national enforcement authorities:

Investing in awareness-raising and information, for instance:

- ▶ Organise **training and information (and inspection supporting) campaigns** to promote awareness of rights of workers and obligations of TWAs and user undertakings. The goal is to have a minimum level of understanding between all those involved about the rights and obligations and, for that purpose it is



important that the information is provided clearly and is **accessible in multiple languages**. For this purpose, there is a translation facility per country via ELA.⁸⁷

- ▶ Organise **meetings with stakeholders** such as TWAs, user companies and housing agencies to **raise awareness** about their obligations and to **influence** their **behaviour** (and/or use 'prevention letters' or introduce certification systems to **reward compliant TWAs** and make the results public, in order to stimulate that user undertakings only hire workers via reliable TWAs).
- ▶ **Enhance and update online information tools**, including the **official single website** that each country has, based on the Posting of Workers Enforcement Directive. It is suggested that prevention letters (refer to section 4.2) should refer to official information such as on this website.
- ▶ **Disseminate information about host state's** working conditions and labour **rights, via actors and stakeholders in sending states**, and **in particular** in countries of origin **of TCN workers**, before they come to the EU, such as via recruitment agencies, TWAs, user companies, trade unions, NGOs, churches, embassies etc. ELA could have a facilitating role using the NLO network, especially in the countries where there is always one flow of sending-receiving. Another option is using a network of social partners as a hook.

Investing in cooperation/collaboration with other authorities, social partners, stakeholder, for instance:

- ▶ Give a **monitoring role to trade unions** and/or actively promote and facilitate the possibility for workers and trade unions (and e.g. NGOs such as fair work) to lodge complaints / signal abuses.
- ▶ **Streamline interinstitutional (online) cooperation** with tax, social security, migration, company registration authorities and police, with regard to related interests and relevant data regarding e.g. **letterbox companies**; whether the work is being performed under the supervision and direction of the subcontractor or the user company, bogus self-employment etc.
- ▶ Develop a sector-specific approach and use **national joint inspection teams** in certain **high-risk sectors**.
- ▶ Further develop **cross-border (bi- or multilateral) cooperation** with the various enforcement authorities in other Member States.

Together with counterparts in other Member States investing in enhanced cross-border strategies and exchange of information via e.g. online tools, such as IMI and to develop joint criteria and approaches, for instance:

- ▶ Improve **exchange of information via IMI** (e.g. regarding requests for checking authorization, registration of TWA and/or checking on letterbox companies) **to support and enforce compliance of TWAs with the EU posting rules** (including both labour and social security dimensions), the EU/national immigration legislation in relation to TCN postings. Ask **assistance from the ELA National Liaison Officer (NLO)** in problematic cases.

Actively **share information on (best) practices** with foreign counterparts, and work together on for example a **mapping** of e.g. high risk of indicators,⁸⁸ approaches/criteria for e.g. financial stability, quality marks, the level of penalties for repeat offenders, license revocation etc. A next step could be, while

⁸⁷ See: <https://www.ela.europa.eu/en/services/translation-facility-information>

⁸⁸ Exchange information on what makes sectors high-risk: Is there a common approach: for instance, in all countries the construction and agricultural sectors, and only in some countries the hospitality sector?



recognizing that the Member States have procedural autonomy, to **formulate joint policy criteria**. This mapping and discussion of possible joint policy approaches can be supported by and for instance via workshops organised by ELA.

5.2 Suggestions for ELA

The participants involved in the PLD suggested that ELA could further facilitate the national authorities' initiatives (in particular in cross-border context) on improving approaches and instruments to support and enforce compliance in TWAs by:

- ▶ Creating an **overview of the specific (and differing) competences of counterparts in the Member States**, with the help of ELA and regularly update it on ELA's website. This is beneficial for a smarter use of the IMI system, and for knowing with whom to liaise for joint inspections and other cross-border collaboration strategies. If requests for information are sent to the correct counterpart the first time, this would streamline cooperation and save time.⁸⁹
- ▶ Running **public information campaigns** focusing on **sectors with substantial TWA presence**, such as organising a 'Week of Action' and creating/distributing informational leaflets.
- ▶ Encouraging national authorities to use **ELA's translating facility** to enhance accessibility of information on rights and obligations in multiple languages (see the suggestion above).
- ▶ Further developing **ELA's website as a community of good practice** where enforcement authorities can share their experiences, tools and methodologies for monitoring and enforcing TWAs compliance, e.g. on inter-institutional cooperation and joint inspections.
- ▶ Supporting **training within and between enforcement authorities** to raise awareness, share knowledge and skills in detecting/tackling non-compliance in TWAs (perhaps also by developing online modules / facilitating staff exchange).
- ▶ Organising (frequent) **training/workshops about monitoring of TWAs' compliance with EU posting rules**, particularly with regard to TCNs.
- ▶ Raising awareness about **the obligation to share information under IMI regulation** and examining whether IMI could be enhanced in view of the needs of the national enforcement authorities concerned with detecting and tackling non-compliance by TWAs
- ▶ Organising training sessions, webinars and meetings as a basis to **support the sharing of practices, mapping exercises, potential joint policy approaches** and further developing **cross-border institutional cooperation** between Member States and by collecting and publishing **bilateral agreements**.

Finally, a long-term goal was suggested that could be further developed by policymakers, namely to take steps towards an **EU-wide registration system for TWAs to ensure accountability and cross-border transparency**. According to the PLD participants, this would make it easier for Member States to verify the legitimacy of TWAs and prevent TWAs from engaging in 'regime-shopping' between countries with stricter regulations and countries with more lenient regulations of TWAs.

⁸⁹ See the examples in section 3.5 footnote 46, provided by the Danish Working environment authority (WEA) about the issues they encounter with joint inspections or other cross-border strategies, as the WEA has only a very limited mandate compared to labour inspectorates in other countries.



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European Platform
tackling undeclared work





Annex: Platform tackling undeclared work outputs related to compliance approaches and instruments regarding temporary work agencies

Approaches to preventing, detecting and tackling bogus self-employment. Report from the peer learning dialogues, (September 2024) https://www.ela.europa.eu/sites/default/files/2024-09/PLD_BSE_Final_Report_clean_0.pdf

Tackling undeclared work among third country nationals working in supply chains, including via temporary work agencies (2024) https://www.ela.europa.eu/sites/default/files/2024-07/report_webinar_supply_chains_clean_version_2.0.pdf

A learning resource from the thematic review workshop on tools and approaches to tackle fraudulent temporary agency work (2020) https://www.ela.europa.eu/sites/default/files/2021-09/TRW%20Fraudulent%20Agency%20Work_LRP.pdf

Tools and approaches to tackle fraudulent temporary agency work, prompting undeclared work (2021) <https://www.ela.europa.eu/sites/default/files/2021-09/UDW%20SSS%20Fraudulent%20Agency%20Work%20Report.pdf>