

POSTING OF WORKERS IN THE CONSTRUCTION SECTOR

GUIDELINES
LINEE GUIDA
HACOKM
GUÍA
LIGNES DIRECTRICES
WYTYCZNE
DIRETRIZES
INDICAȚII

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IT



Introduction

The ISA – Information Sharing Agreements – project is promoted by the Italian Joint National Committee for Buildings Workers' Welfare Funds (Commissione Nazionale Casse Edili – CNCE) and involves as partners Fondazione Giacomo Brodolini (FGB) as scientific coordinator, along with partners from six other EU countries targeted by the action, namely: BCC (Bulgaria), IR Share and UCF (France)⁽¹⁾, ZZ Budowlani (Poland), ISCTE-IUL (Portugal), MoLSJ (Romania) and Notus (Spain). The consortium also includes AEIP as a European-level partner, and a key institutional stakeholder, ACT (Portugal)⁽²⁾, as an associate organisation.

ISA addresses transnational cooperation in the field of posting of workers, acknowledging its key role for guaranteeing the proper application and enforcement of EU rules on posting.

Throughout the life span of the project (January 2019 – March 2021), partners implemented a process designed to improve existing practices by: gaining relevant contextual information; selecting and assessing existing agreements for transnational information sharing; discussing early findings with public authorities, social partners, sectoral funds and other stakeholders; and identifying existing gaps and opportunities for improvement. As a result, the project delivered:

- the Country briefing papers, providing contextual information for each country covered;
- the Guidelines illustrating features of 11 selected agreements and assessing their achievements so as to guide their possible enlargement;
- two online webinars and two online workshops discussing early findings from the project⁽³⁾;
- the Final report, comparing findings from the Guidelines and proposing possible options to improve administrative cooperation in the covered countries by means of Country level plans.

(1) IR Share replaced UCF in the consortium starting from December 2020 and has contributed to drafting the present report.

(2) More information about the partners can be found at this link:
<https://www.isaproject.eu/consortium/>.

(3) Extracts from the events are available on the CNCE YouTube channel:
<https://www.youtube.com/channel/UCKmSXCP!poO33IWJl54JTsw>

Introduzione

Il Progetto ISA (*Information Sharing Agreements*, Accordi per lo scambio di informazioni) – è promosso dalla Commissione Nazionale paritetica per le Casse Edili (CNCE), con il coordinamento scientifico della Fondazione Giacomo Brodolini (FGB), ed il supporto di sei ulteriori partner dai paesi coperti dal progetto, quali: BCC (Bulgaria), IR Share e UCF (Francia)⁽¹⁾, ZZ Budowlani (Polonia), ISCTE-IUL (Portogallo), MOLSI (Romania) e Notus (Spagna). Il consorzio include altresì l'AEIP, come partner europeo, ed un ispettorato del lavoro, ACT (Portogallo), come organizzazione associata⁽²⁾.

Il progetto ISA si occupa della cooperazione transnazionale nell'ambito del distacco di personale, partendo dalla consapevolezza del ruolo chiave che tale aspetto ricopre per l'efficace applicazione delle norme europee in materia.

Nel corso del progetto (gennaio 2019 – marzo 2021), i partner hanno seguito un processo pensato per migliorare le attuali pratiche di cooperazione, a partire dalla raccolta di informazioni di contesto, per poi selezionare e valutare gli accordi esistenti, discutere i risultati preliminari dell'analisi con istituzioni pubbliche, parti sociali, enti bilaterali ed altri stakeholder, ed identificarne attuali limiti ed opportunità di miglioramento. Tali attività hanno prodotto:

- i *Country briefing papers*, contenenti informazioni di contesto per ogni paese analizzato;
- le *Guidelines*, che descrivono 11 accordi selezionati e ne valutano i relativi risultati al fine di promuoverne l'allargamento;
- due webinar e due workshop online per discutere i risultati preliminari del progetto⁽³⁾;
- il Rapporto finale, che confronta i contenuti delle Guidelines e propone per via dei *Country level plan* possibili opzioni per migliorare la cooperazione amministrativa nei paesi coperti.

Tutti i rapporti sono disponibili nelle diverse lingue del progetto sul sito www.isaproject.eu.

(1) IR Share ha sostituito l'UCF a partire da dicembre 2020 ed ha contribuito alla redazione di questo rapporto.

(2) Maggiori informazioni sul partenariato sono disponibili a questo link: <https://www.isaproject.eu/consortium/>

(3) Alcuni video degli eventi sono disponibili sul canale YouTube della CNCE: <https://www.youtube.com/channel/UCKmSXCPpo033lWJl54JTsw>

All the reports are available on the project web-site: www.isaproject.eu. This publication gathers all the 11 Guidelines produced during the project in a combined version which includes for each Guidelines the English original version and its translation in the language of the partner responsible for analysing the covered agreement. Agreements have been selected following a preliminary mapping exercise and in the light of both availability of information and actual results.

The analysis adopted as sources mainly the texts of the agreements themselves (whenever available), relevant documentations (e.g. programmes of annual cooperation between the involved institutions) and interviews with officials involved in bargaining or implementing the agreement.

The structure of Guidelines follows a template jointly developed at the beginning of the project and meant to ensure a standard methodology.

The description of objectives, features and outcomes is complemented by sections on risks and concerns leading to the adoption of the agreement, on the process itself, as well as on the possible 'business case' for different stakeholders and on possible legal issues smoothing or hampering the agreement itself.

The template was thought to inform readers about fundamental aspects for the possible transferring and adjustment of the practices in other contexts.

In order to ease reading, the table below includes some information on the available language versions of Guidelines and on the main organisations involved.

This follows the classification adopted for research purposes in the Final report, labelling agreements between the following categories: agreements signed by Labour inspectorates, agreements promoted by Ministries of Labour and agreements involving sectoral funds.

Generally, as described in the Final report, the first group seems to pay particular attention to activities of information sharing on firms and companies for monitoring and enforcement purposes, as well as of information sharing on relevant legislation and of promotion of joint inspections.

Agreements promoted by Ministries of Labour share similar features. Yet, they seem more focused on the dissemination of information useful for employers and workers and on activities of joint training for their officials.

Instead, the last group covers: (i) two agreements signed by sectoral funds active in the construction sector enabling construction companies posting workers abroad to keep paying contributions

Questa pubblicazione raccoglie le 11 Guidelines prodotte durante il progetto in una versione integrata che include ciascun documento sia in inglese che nella lingua del partner responsabile per l'analisi dell'accordo. Gli accordi sono stati selezionati a seguito di una mappatura preliminare alla luce sia della disponibilità di informazioni che dei loro risultati effettivi. L'analisi si è basata essenzialmente sui testi degli accordi stessi (quando disponibili), su documenti di interesse (ad esempio i programmi di cooperazione annuale tra le istituzioni coinvolte), e sull'esperienza dei funzionari direttamente coinvolti nei negoziati o nella implementazione dell'accordo.

La struttura delle *Guidelines* segue un modello concordato all'inizio del progetto al fine di assicurare un comune approccio metodologico. La descrizione di obiettivi, caratteristiche e risultati è integrata da sezioni su rischi e preoccupazioni che hanno portato alla stesura dell'accordo, sul processo stesso, così come sulle possibili ricadute positive per i diversi stakeholder ('business case') e su questioni di carattere normativo che abilitano o ostacolano l'accordo stesso. Questa struttura è stata pensata per informare i lettori su questioni fondamentali per una possibile trasferimento ed adeguamento delle pratiche in altri contesti.

Al fine di facilitare la consultazione del testo, la tabella in calce fornisce informazioni sulle lingue in cui sono disponibili le *Guidelines* e sulle principali organizzazioni coinvolte.

In tal senso si è seguita la classificazione adottata con finalità analitiche nel rapporto finale, che ha assegnato ciascun accordo ad una delle seguenti categorie: accordi siglati da ispettorati del lavoro, accordi promossi da Ministeri del Lavoro ed accordi che coinvolgono enti bilaterali.

In generale, come descritto nel rapporto finale, il primo gruppo sembra prestare particolare attenzione alle attività di scambio dati su aziende e lavoratori con finalità ispettive e di monitoraggio, così come sullo scambio di informazioni sulla normativa di riferimento e sulla promozione di ispezioni congiunte.

Gli accordi promossi dai Ministeri del Lavoro hanno caratteristiche simili ma risultano più focalizzati sulla disseminazione di informazioni utili per datori di lavoro e lavoratori e su attività di formazione congiunte per i propri funzionari.

L'ultimo gruppo, invece, copre due accordi siglati da enti bilaterali⁽⁴⁾ attivi nel settore delle costruzioni per permettere alle aziende che distaccano

(4) Nota del traduttore: il termine "enti bilaterali" è usato in questo rapporto come traduzione dall'inglese "sectoral funds", con il quale si intendono le casse che intermediano il pagamento di alcune indennità per mezzo di contributi e trattenute sul salario, come le Casse Edili. Sebbene tali casse abbiano generalmente una composizione paritetica, non è questo il caso della cassa francese UCF, costituita dalle sole organizzazioni datoriali del settore edile.

for holiday pay and for other indemnities to the fund of the sending country; (ii) a peculiar agreement between a sectoral fund and a social security institute meant to guarantee application of social security contributions in the sending country (Poland, in the case at hand) of payments made to the sectoral funds of the host country.

Table 1:
List of agreements covered by the project Guidelines

Name	Covered countries	Main involved organisations	Language versions
Transnational bilateral agreements between the Italian CNCE and sectoral funds active in other EU countries	Various countries (Focus on IT-DE)	Sectoral funds	EN, IT
Cross-border administrative cooperation agreement between Bulgaria and France signed by the Ministry of Labour and Social Policies of the Republic of Bulgaria and the Ministry of Labour, Social Affairs, Family and Solidarity of the French Republic	BG-FR	Ministries	EN, BG
Cooperation agreement on Cooperation and mutual exchange of information between GLIEA under the Ministry of Labour and Social Policy of the Republic of Bulgaria and the Labour Inspection Authority of the Kingdom of Norway	BG-NO	Labour inspectorates	EN, BG
Cross-border cooperation agreement between the Labour inspectorates of Spain and France	ES-FR	Labour inspectorates	EN, ES
Cross-border cooperation agreement between the Spanish and the Portuguese Labour Inspectorates	ES-PT	Labour inspectorates	EN, ES
Transnational bilateral agreements between the French UCF and sectoral funds active in other EU countries	Various countries (Focus on FR-DE)	Sectoral funds	EN,FR
Agreement between the Social Insurance Institution (ZUS) (Poland) and SOKA-BAU (Germany)	PL-DE	Sectoral funds	EN, PL

personale di continuare a versare nel paese di origine i contributi alle casse per le ferie ed altre indennità; ed un accordo peculiare tra un ente bilaterale ed un istituto di sicurezza sociale al fine di garantire l'assoggettamento a contributi sociali nel paese di invio (Polonia, nel caso in questione) dei contributi versati alla cassa estera.

Tabella 1:
Lista degli accordi analizzati nelle Guidelines di progetto

Nome	Paesi coinvolti	Principali organizzazioni coinvolte	Versioni linguistiche
Accordi internazionali bilaterali tra la CNCE e gli enti bilaterali attivi in altri paesi europei	Vari paesi (Focus su IT-DE)	Enti bilaterali	EN, IT
Accordo di cooperazione internazionale tra la Bulgaria e la Francia siglato dal Ministero del Lavoro e delle Politiche Sociali della Bulgaria e dal Ministero del Lavoro, degli Affari Sociali e della Solidarietà francese	BG-FR	Ministeri	EN, BG
Accordo di cooperazione riguardante la cooperazione e il mutuo scambio di informazioni tra l'Ispettorato Generale del Lavoro, sotto la direzione del Ministero del Lavoro e delle Politiche Sociali bulgaro, e l'Ispettorato del Lavoro norvegese	BG-NO	Ispettorati del lavoro	EN, BG
Accordo di cooperazione Internazionale tra gli ispettorati del lavoro di Spagna e Francia	ES-FR	Ispettorati del lavoro	EN, ES
Accordo di cooperazione Internazionale tra gli ispettorati del lavoro di Spagna e Portogallo	ES-PT	Ispettorati del lavoro	EN, ES
Accordi internazionali bilaterali tra la cassa francese UCF e gli enti bilaterali attivi in altri paesi europei	Vari paesi (Focus su FR-DE)	Enti bilaterali	EN,FR
Accordo di cooperazione bilaterale e scambio di informazioni tra l'Ispettorato del Lavoro Nazionale polacco e l'Ispettorato del Lavoro danese	PL-DK	Ispettorati del lavoro	EN,PL

Name	Covered countries	Main involved organisations	Language versions
Agreement concerning bilateral cooperation and information exchange between the National Labour Inspectorate in the Republic of Poland and the Work Environment Authority of the Kingdom of Denmark	PL-DK	Labour inspectorates	EN, PL
Bilateral Agreement between the Authority for Working Conditions of Portugal and the Service for Control of Social Laws and the Service for Control of Well Being at Work, both from the Federal Public Service Employment, Social Work and Consultation of the Kingdom of Belgium	PT-BE	Labour inspectorates	EN, PT
Administrative Cooperation Agreement between the Ministry of Labour from the French Republic and the Ministry of Labour, Solidarity and Social Security from the Portuguese Republic on the posting of workers and prevention of undeclared work	FR-PT	Ministries	EN, PT
Cooperation agreements to tackle illegal posting, breaching of legislation in the field of labour relations, working conditions, and health and safety at work signed by Romania with Greece, Hungary, Italy, Portugal and Spain ⁽⁴⁾	RO-EL RO-HU RO-IT RO-PT RO-ES	Ministries	EN, RO

(4) In ragione della somiglianza tra loro, si è scelto di analizzare unitariamente questi cinque diversi accordi.

Nome	Paesi coinvolti	Principali organizzazioni coinvolte	Versioni linguistiche
Accordo tra l'Istituto di Sicurezza Sociale polacco (ZUS) e la cassa tedesca SOKA-BAU	PL-DE	Enti bilaterali	EN, PL
Accordo bilaterale tra l'Ispettorato del Lavoro portoghese e gli Ispettorati della Sicurezza Sociale e del Lavoro belgi	PT-BE	Ispettorati del lavoro	EN, PT
Accordo di cooperazione amministrativa tra il Ministero del Lavoro francese e il Ministero del Lavoro, della Solidarietà e della Sicurezza Sociale portoghese inerente il distacco di personale e la prevenzione del lavoro non dichiarato	FR-PT	Ministeri	EN, PT
Accordi di cooperazione per contrastare il distacco illecito e le violazioni nel campo delle relazioni industriali, delle condizioni di lavoro e della salute e sicurezza sul lavoro firmati dalla Romania con Grecia, Ungheria, Italia, Portogallo e Spagna ⁽⁵⁾	RO-EL RO-HU RO-IT RO-PT RO-ES	Ministeri	EN, RO

(5) In ragione della somiglianza tra loro, si è scelto di analizzare unitariamente questi cinque diversi accordi.

Guidelines

Transnational bilateral agreements between the Italian CNCE and sectoral funds active in other EU countries

AUTHOR: FELICIANO IUDICONE (FGB), GIACOMO VIRGILIO (CNCE)
December 2020

Risks or concerns addressed by the agreement

Since the early 2000s, the number of foreign companies winning public or private construction work contracts in Italy has been on the rise. The areas most affected are the North-West, facing an influx of French and Spanish companies, and the North-East, where companies from Austria, Germany and Eastern Europe are active.

At the same time, Italian companies have been working more and more in neighbouring countries, especially Germany and France. These trends have brought about an increase in workers' mobility, especially through posting, with significant consequences for the management of remuneration and payrolls, which can be particularly burdensome especially for SMEs.

In fact, Italy and neighbouring countries like Austria, Germany and France have developed a system of intermediation of construction workers' wages by means of sectoral funds, thought to guarantee income stability despite the temporariness of contracts in the sector or sudden interruption of work due to adverse weather conditions.

Net of some differences in their territorial organisation, ownership model and benefits, these sectoral funds handle about 30% of workers' gross wages by means of 'contributions' paid by the employer to the fund, which, in turn, entitle workers to a set of benefits (e.g. holiday pay, bad weather pay, seniority pay, access to vocational training...).

This means, whenever a worker is sent abroad, the employer shall notify the competent fund in the sending and host country in order to suspend payment in the previous and contribute to the latter.

Linee guida

Accordi bilaterali transnazionali tra la CNCE italiana ed enti bilaterali esistenti in altri Paesi dell'UE

AUTORI: FELICIANO IUDICONE (FGB), GIACOMO VIRGILIO (CNCE)
Dicembre 2020

Rischi o preoccupazioni oggetto dell'accordo

Dall'inizio degli anni 2000, il numero di imprese straniere che si aggiudicano contratti di appalto pubblici o privati per opere edili in Italia è in crescita. Le aree più interessate sono il Nord-Ovest, dove operano imprese francesi e spagnole, e il Nord-Est, dove operano imprese provenienti dall'Austria, dalla Germania e dall'Europa orientale.

Allo stesso tempo, le imprese italiane operano sempre più frequentemente nei paesi limitrofi, in particolare in Germania e Francia. Queste tendenze hanno determinato un aumento della mobilità dei lavoratori, in particolare tramite il distacco, con conseguenze significative per la gestione delle retribuzioni e delle buste paga, aspetti di particolare rilievo specie per le PMI.

L'Italia e alcuni paesi limitrofi come Austria, Germania e Francia hanno infatti sviluppato un sistema di intermediazione dei salari dei lavoratori nel settore edile tramite enti bilaterali. Il sistema è finalizzato a garantire la stabilità dei redditi nonostante la temporaneità dei contratti nel settore o l'interruzione improvvisa del lavoro a causa di condizioni meteorologiche avverse.

A parte alcune differenze nella loro organizzazione territoriale, nel modello di proprietà e nelle prestazioni, tali "casse", generalmente costituite come enti bilaterali, gestiscono circa il 30% dei salari lordi dei lavoratori attraverso "contributi" versati dal datore di lavoro all'ente, contributi che, a loro volta, danno diritto ai lavoratori ad una serie di prestazioni (ad es., ferie retribuite, indennità per maltempo, scatti di anzianità, accesso a formazione professionale...).

Ciò significa che, ogniqualvolta un lavoratore viene distaccato all'estero, il datore di lavoro deve informare l'ente bilaterale competente del

In turn, workers would gain entitlement to benefits towards foreign sectoral funds, that they shall claim back abroad, realistically once the posting ends.

In order to simplify rules while protecting workers' entitlements, starting from 2008 sectoral funds from Italy (CNCE)⁽¹⁾, Germany (ULAK), France (UCF) and Austria (BUAK) underwrote agreements devising a process similar to rules applying in the field of social security coordination, that is allowing sending undertakings to remain attached to the funds of the sending country in case of posting.

Objectives

The agreements pursue the following objectives:

- a) to prevent posting of workers to work as a driver of social dumping;
- b) to protect construction workers ensuring continuity of enrolment in their sectoral funds, access to related benefits and an overall pay comparable with remuneration applicable in the host country;
- c) to make it easier for construction companies to provide their services abroad;
- d) to share information between social partners and sectoral funds in the involved countries on the terms and conditions of employment entailed in the different countries, especially concerning the structure of remuneration and the role of sectoral funds;
- e) to tackle undeclared work and to supervise the correct application of collective bargaining provisions.

(1) CNCE and UCF are actually coordinating and supervisory bodies at national level of sectoral funds established at local level throughout Italy and France respectively.

Paese di origine e del Paese ospitante al fine di sospendere i versamenti al primo e contribuire al secondo.

A loro volta, i lavoratori otterrebbero il diritto a prestazioni di enti bilaterali esteri, prestazioni che dovranno richiedere all'estero, realisticamente al termine del distacco.

Al fine di semplificare le norme tutelando al contempo i diritti dei lavoratori, a partire dal 2008 gli enti bilaterali in Italia (CNCE)⁽¹⁾, Germania (ULAK), Francia (UCF) e Austria (BUAK) hanno sottoscritto accordi che prevedono un processo analogo a quello applicabile nell'ambito del coordinamento dei regimi di sicurezza sociale, che consente alle imprese distaccanti di continuare a contribuire agli enti del Paese di origine in caso di distacco.

Obiettivi

Gli accordi perseguono i seguenti obiettivi:

- a) impedire che il distacco dei lavoratori sia utilizzato come uno strumento di dumping sociale;
- b) tutelare i lavoratori nel settore edile garantendo la continuità dell'iscrizione alle casse del loro paese, l'accesso alle relative prestazioni e una retribuzione complessiva comparabile a quella applicabile nel Paese ospitante;
- c) agevolare la prestazione di servizi all'estero da parte delle imprese operanti nel settore edile;
- d) scambiare informazioni tra le parti sociali e gli enti bilaterali dei Paesi interessati sulle condizioni di impiego nei vari Paesi, in particolare per quanto riguarda la struttura delle retribuzioni e il ruolo di tali enti;
- e) combattere il lavoro sommerso e vigilare sulla corretta applicazione delle disposizioni dei contratti collettivi.

(1) La CNCE e l'UCF sono in realtà organismi di coordinamento e vigilanza a livello nazionale delle casse istituite a livello locale rispettivamente in Italia e in Francia. Nota del traduttore: l'UCF è anche l'unica tra gli enti coperti dagli accordi ad essere costituita dalle sole associazioni datoriali. Per facilitare la comprensione in lingua italiana, si è preferito comunque tradurre l'originale inglese "sectoral funds" (letteralmente fondi di settore) con "enti bilaterali", o con "casse" quando non riferito anche agli organismi di coordinamento delle casse.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	In the absence of the agreements, posted workers would have their contributions fragmented across different funds, risking losing some wage elements in the host country or losing continuity necessary to accrue some entitlements in the sending country (e.g. the seniority pay granted by the Italian sectoral funds).
Companies:	The agreements prevent risks of double payment while reducing the administrative burden for employers, who interact only with their fund in the sending country and in their own language.
Unions:	Provided the overall labour costs between the involved countries is similar, unions benefit from a tool which incentivizes compliance with collective agreements by construction companies.
Employers' organisations:	Employers' organisations benefit from a tool which simplifies administrative requirements in case of posting for their companies, ensure the possibility for companies to rectify possible mistakes, and ensures a level playing field for businesses at international level. Once again, the similarity in the remuneration levels in the covered countries is a key precondition for simplification to go hand in hand with fair competition.
Sectoral funds:	The funds benefit from an easy tool to guarantee continued affiliation and payment by companies, while offering a service appreciated by their affiliates.
Public institutions:	Public institutions (especially social security institutions) benefit from a higher certainty on the regularity of undertakings, especially whenever parallel agreements are in place to share information with sectoral funds. In this respect, it shall be noted, compared to the A1 form, on the top of affiliation in the sending country, the funds certificate also regularity with payments of contributions before and during the posting period, a condition which is not required, instead, under procedures for certifying the correct affiliation of posted workers to the social security institution of the sending country pursuant to Article 12 of the Regulation EC 883/2004.

Main features

The agreement enables the sending company to contribute the sectoral fund of the sending country rather than to the one of the host country for posted workers.

In order to do so, the company must prepare a declaration including: registration number or identifying code, place of posting, kind of

“Business case” per l’adozione dell’accordo dal punto di vista delle parti interessate

Lavoratori:	In assenza degli accordi, i versamenti dei contributi dei lavoratori distaccati sarebbero frammentati in diverse casse, con il rischio di perdere alcuni elementi salariali nel Paese ospitante o la continuità necessaria per maturare alcuni diritti nel Paese di origine (ad es., gli scatti di anzianità professionale garantiti dalle Casse Edili italiane).
Imprese:	Gli accordi prevengono il rischio di doppia imposizione riducendo al contempo l’onere amministrativo per i datori di lavoro, che interagiscono solo con il loro ente nel Paese di origine e nella loro lingua.
Sindacati:	A condizione che il costo complessivo del lavoro tra i paesi coinvolti sia simile, i sindacati beneficiano di uno strumento che incentiva il rispetto dei contratti collettivi da parte delle imprese del settore edile.
Organizzazioni datoriali:	Le organizzazioni datoriali beneficiano di uno strumento che semplifica i requisiti amministrativi in caso di distacco per le loro imprese, garantisce alle imprese la possibilità di rettificare eventuali errori e assicura parità di condizioni per le imprese a livello internazionale. Anche in questo caso, la sostanziale omogeneità dei livelli salariali nei paesi coperti è una preconditione essenziale affinché la semplificazione vada di pari passo con una concorrenza leale.
Enti bilaterali:	Gli enti beneficiano di uno strumento semplice per garantire la continuità di affiliazione e pagamento da parte delle imprese, offrendo al contempo un servizio apprezzato dai loro iscritti.
Enti pubblici:	Le istituzioni pubbliche (in particolare gli enti previdenziali) beneficiano di una maggiore certezza sulla regolarità delle imprese, soprattutto quando sono in vigore accordi paralleli di condivisione di informazioni con gli enti bilaterali. A tal proposito, si segnala che, rispetto al certificato A1, gli enti bilaterali, oltre alla registrazione nel Paese di origine, certificano anche la regolarità dei versamenti dei contributi prima e durante il periodo del distacco, condizione che non è richiesta, invece, in base alle procedure per certificare la corretta affiliazione dei lavoratori distaccati all’ente previdenziale del Paese di origine ai sensi dell’articolo 12 del regolamento CE n. 883/2004.

Caratteristiche principali

L’accordo consente all’impresa distaccante di contribuire all’ente bilaterale del Paese di origine piuttosto che a quello del Paese ospitante per i lavoratori distaccati.

A tal fine, l’impresa deve redigere un certificato che includa: il numero di registrazione o il codice identificativo dell’impresa, il luogo in cui

activity, name of the client, starting and ending date of posting, workers to be posted.

In order for the exemption to be granted, the company shall be in compliance with contribution duties towards the sectoral fund in the sending country and remain compliant during the posting period.

In particular, taking the example of the CNCE-ULAK agreement, the text is structured as follows:

- The Premises states the objective to set out procedures concerning the exemption from contribution charges towards the sectoral fund in the host country in case of posting;
- Section 2(1) summarises German legislation on posting at the time of the agreement, including the application of collective agreements covering the construction sector, in particular for what concerns minimum wages and the 14.70% levy on gross wage to fund holiday pay through ULAK. The section also remarks the presence of declaration duties in case of posting to ULAK and to the Tax Agency.
- Section 2(2) displays levies on wage applying in Germany to the employer as contributions to sectoral funds or to remunerate leaves and other statutory or collectively agreed bonuses applicable in the construction sector (see table below);
- Section 3(1) summarises Italian legislation on posting at the time of the agreement, including the application of the same law and collective bargaining provisions applicable to workers in the territory where they are posted, the requirement to affiliate posted construction workers to the Italian sectoral fund, and further obligations concerning certification of compliance with payment of social security contributions;
- Section 3(2) displays levies on wage applying in Italy to the employer as contributions to sectoral funds or to remunerate leaves and other statutory or collectively agreed bonuses applicable in the construction sector (see table below);
- Section (4) exonerates sending undertakings from paying the above described levies in the host country, provided they continue to pay the equivalent levies in the sending country;
- Section 5 provides definitions and section 6 specifies CNCE is the Italian organisation in charge of implementing the information sharing entailed by the agreement, despite information and related payments in Italy takes place through sectoral funds established at local level (i.e. *Casse Edili*);
- Section 7 describes the process for the exemption as follows:

avviene il distacco, il tipo di attività, il nome del committente, la data di inizio e fine del distacco, i lavoratori da distaccare.

Affinché l'esenzione sia concessa, l'impresa deve essere in regola con il versamento dei contributi all'ente bilaterale del Paese di origine e rimanere in regola durante il periodo del distacco.

In particolare, prendendo ad esempio l'accordo CNCE-ULAK, il testo è articolato come segue:

- Le premesse stabiliscono l'obiettivo di definire le procedure per l'esenzione dall'obbligo di versamento dei contributi all'ente bilaterale del Paese ospitante in caso di distacco;
- L'articolo 2, paragrafo 1, sintetizza le disposizioni della normativa tedesca in materia di distacco vigenti al momento dell'accordo, compresa l'applicazione di contratti collettivi nel settore edile, in particolare per quanto riguarda i minimi retributivi e il contributo pari al 14,70% del salario lordo da versare per il finanziamento dell'indennità per ferie dovuta dall'ULAK. La sezione rileva inoltre gli obblighi di dichiarazione in caso di distacco nei confronti dell'ULAK e dell'Agenzia delle Entrate tedesca.
- L'articolo 2, paragrafo 2, mostra i prelievi sul salario che i datori di lavoro sono tenuti a versare in Germania come contributi agli enti bilaterali o per remunerare le ferie e per altre indennità previste per legge o dai contratti collettivi applicabili nel settore edile (si veda la tabella in basso);
- L'articolo 3, paragrafo 1, sintetizza le disposizioni della normativa italiana in materia di distacco vigenti al momento dell'accordo, tra cui l'applicazione di tale normativa e delle disposizioni dei contratti collettivi applicabili ai lavoratori nel territorio in cui sono distaccati, l'obbligo di registrazione dei lavoratori distaccati all'ente bilaterale italiano, e ulteriori obblighi in materia di certificazione della regolarità della posizione del datore di lavoro dal punto di vista previdenziale;
- L'articolo 3, paragrafo 2, mostra i prelievi sul salario che i datori di lavoro sono tenuti a versare in Italia come contributi agli enti bilaterali o per remunerare le ferie e per altre indennità previste per legge o dai contratti collettivi applicabili nel settore edile (si veda la tabella seguente);
- L'articolo 4 esonera le imprese distaccanti dal versamento dei contributi sopra descritti nel Paese ospitante, a condizione che continuino a pagare i contributi equivalenti nel Paese di origine;
- L'articolo 5 fornisce alcune definizioni e l'articolo 6 specifica che la CNCE è l'organismo italiano responsabile di attuare la condivisione delle informazioni prevista dall'accordo, nonostante le informazioni e i relativi pagamenti in Italia avvengano attraverso casse istituite a livello locale (le Casse Edili);

1. Sending undertakings mandate their sectoral fund in the sending country to submit the declaration on posting on their behalf;
 2. The sectoral fund verifies that the sending undertaking is in compliance with contribution duties, receives a declaration certifying its will to prosecute paying levies for posted workers in the sending country and notify the information to the sectoral fund in the host country together with a list of posted workers;
 3. The sectoral fund in the host country exempts the sending undertakings from contributions, whilst the sectoral fund in the sending country commits to monitor the payment of contributions in the sending country, to sanction irregularities and inform the sectoral fund in the sending country should they occur;
 4. Should the sectoral fund in the host country detect posted workers not previously declared, the sectoral fund in the sending country shall check if they are/shall be affiliated in the sending country. As long as the employer cannot demonstrate that conditions for the exemptions are met, the sectoral fund of the host country can impose payment of contributions and activate enforcement procedures;
 5. Final provisions entail: the duty to declare changes affecting posting, affiliation to sectoral funds in the host country as a rule in the absence of an exemption request by the employer, commitment by the parties to implement checks and ensure a wide and reciprocal information sharing, commitment by the parties to develop jointly templates for declarations and to bear the administrative costs each for its side;
- Section 8 gives equal value to the Italian and German language versions of the agreement and requires change to be made in writing;
 - Section 9 entails an experimental length of two years and its tacit annual prorogation. Each party can decide to discontinue the agreement sending a communication at the latest six months before the expiration. The agreement ceases also in case contributions to sectoral funds in one of the countries are abrogated.

- L'articolo 7 descrive la procedura per l'esenzione come segue:
 1. Le imprese distaccanti incaricano il loro ente bilaterale nel Paese di origine di presentare la dichiarazione di distacco per loro conto;
 2. L'ente verifica la regolarità contributiva dell'impresa distaccante, riceve una dichiarazione attestante la volontà dell'impresa di continuare il versamento dei contributi per i lavoratori distaccati nel Paese di origine e trasmette le informazioni all'ente omologo del Paese ospitante unitamente a un elenco dei lavoratori distaccati;
 3. L'ente bilaterale del Paese ospitante esenta le imprese distaccanti dal versamento dei contributi, mentre quello del Paese di origine si impegna a monitorare il pagamento dei contributi nel Paese di origine, a sanzionare le irregolarità e ad informare l'ente del Paese ospitante delle stesse;
 4. Qualora l'ente bilaterale del Paese ospitante rilevi lavoratori distaccati non precedentemente dichiarati, l'ente del Paese di origine verifica se sono o dovrebbero essere iscritti a quest'ultimo. Finché il datore di lavoro non può dimostrare che le condizioni per l'esenzione siano soddisfatte, l'ente bilaterale del Paese ospitante può imporre il pagamento dei contributi e attivare procedure esecutive;
 5. Le disposizioni finali prevedono: l'obbligo di dichiarare modifiche relative al distacco, la registrazione a enti bilaterali nel Paese ospitante di norma in assenza di una richiesta di esenzione da parte del datore di lavoro, l'impegno delle parti ad attuare controlli e garantire un'ampia e reciproca condivisione delle informazioni, e il loro impegno ad elaborare formulari comuni per le dichiarazioni e a sostenere i rispettivi costi amministrativi;
- L'articolo 8 attribuisce pari valore alle versioni in lingua italiana e tedesca dell'accordo e richiede che eventuali modifiche siano apportate per iscritto;
- L'articolo 9 prevede una durata sperimentale di due anni e la sua tacita proroga annuale. Ciascuna parte può decidere di recedere dall'accordo inviando una comunicazione al più tardi sei mesi prima della scadenza. L'accordo cessa anche nel caso la contribuzione alle casse venga abrogata in uno dei paesi.

Table 1:
Cost comparison as per Section 2(2) and 3(2)
of the CNCE-ULAK agreement

Levies on gross wage - Germany - Section 2(2)	Share on gross wage	Levies on gross wage - Italy - Section 3(2)	Share on gross wage
Holiday pay	14,70%	Holiday pay	8,5%
Vocational training allowance	2,50%	Thirteen month pay	10%
Complementary pension	2,60%	Minimum level of contributions for seniority pay, vocational training and for the prevention of accidents at work (varying depending on the local fund):	6,5%
Bad weather pay	2%		
Total intermediated by ULAK	21,80%	Total intermediated by Casse edili	25%
Thirteen month pay (paid directly to the worker)	7,18%		
		Maximum amount of the 'annual leave' allowance, covering additional holidays (paid directly to the worker)	4,95%
Total	28,98%	Total	29,95%

Process of adoption and role of different involved stakeholders

Necessary requisites for the agreements to apply were: (i) the recognition of contributions to sectoral funds and of other levies as part of the minimum rates of pay posted workers have right to; (ii) the recognition of the similar features of contributions and levies across the covered countries.

In particular, for Italy, several guidelines released by the Ministry of Labour stressed the obligation upon companies operating in the construction sector to contribute to sectoral funds, an obligation applying pursuant to the national transposition of the Posting of Workers Directive also to foreign undertaking, unless similar prescriptions apply in the sending country.

This principle was made clear especially with the opinion 24/2007 of 23 September 2007 and, later, with the Memorandum of

Tabella 1:
Confronto dei costi come da Articoli 2(2) e 3(2)
dell'accordo CNCE-ULAK

Prelievi sul salario lordo - Germania - Sezione 2(2)	Quota sul salario lordo	Prelievi sul salario lordo - Italia - Sezione 3(2)	Quota sul salario lordo
Ferie retribuite	14,70%	Ferie retribuite	8,5%
Indennità per formazione professionale	2,50%	Tredicesima	10%
Pensione integrativa	2,60%	Livello minimo dei contributi per scatto di anzianità, formazione professionale e prevenzione degli infortuni sul lavoro (variabile a seconda del fondo locale):	6,5%
Indennità per maltempo	2%		
Totale intermediato dall'ULAK	21,80%	Totale intermediato dalle Casse edili	25%
Tredicesima (pagata direttamente al lavoratore)	7,18%		
		Importo massimo delle ferie annuali retribuite, comprensivo delle ferie supplementari (pagato direttamente al lavoratore)	4,95%
Totale	28,98%	Totale	29,95%

Processo di adozione e ruolo delle diverse parti interessate coinvolte

I requisiti necessari per procedere agli accordi sono stati: (i) il riconoscimento dei contributi agli enti bilaterali e di altri versamenti come parte dei minimi retributivi a cui hanno diritto i lavoratori distaccati; (ii) il riconoscimento delle similarità dei contributi e dei relativi importi in tutti i paesi coperti.

In particolare, per quanto riguarda l'Italia, il Ministero del lavoro ha più volte sottolineato l'obbligo per le imprese operanti nel settore edile di contribuire agli enti bilaterali, obbligo che si applica, ai sensi del recepimento nazionale della direttiva sul distacco dei lavoratori, anche alle imprese straniere, a meno che non si applichino disposizioni normative analoghe nel Paese di origine.

understanding signed on 9 April 2013 by the Ministry of Labour and social partners.

The memorandum acknowledged the duty for foreign companies operating construction works in Italy to register their workers to the sectoral fund and contribute to the latter while recognising the authority of CNCE to sign agreements with foreign sectoral funds exempting companies from such duty provided: (i) the exemption is reciprocal and (ii) workers benefit from similar protection in the sending country. Interestingly, the memorandum set out also that sending companies shall submit to CNCE documents certifying the regular payment of social security contributions in the sending country, a measure equivalent to certification on the regular payment of social security contributions required to companies established in Italy to carry out construction works. In a view to ease monitoring activities, a process of information sharing between CNCE and local branches of the Ministry of Labour is also envisaged.

The agreements signed by CNCE devotes therefore a special attention to the share of contributions to sectoral funds and other levies on gross wages in the covered countries.

As posting faces the legislation of two countries at a time, this comparison was implemented in pairs, leading to a set of bilateral transnational agreements.

The first comparison was made between CNCE and ULAK, paving the way for the similar exercises involving other pairs of sectoral funds and for the signature of related agreements (lastly covering Italy and San Marino). The collaboration was also eased by the intermediation of European social partners in the construction sector.

EU level and national level legal aspects smoothing or hampering the agreement

The legal basis for the agreements are the national acts transposing the Posting of Workers Directive, in particular for what concerns the right of posted workers to receive remuneration and minimum annual paid leave in line with law or collective bargaining provisions in force in the host country.

As explained in the 'process' section, in Italy the legitimacy of the agreements is acknowledged also by relevant guidance developed by the Ministry of Labour and, eventually, by a memorandum of understanding signed by the Ministry of Labour and social partners.

Tale principio è stato chiarito in particolare con il parere 24/2007 del 23 settembre 2007 e, successivamente, con il Protocollo d'intesa siglato il 9 aprile 2013 tra il Ministero del lavoro e le parti sociali.

Il protocollo ha riconosciuto l'obbligo per le imprese straniere operanti nel settore edile in Italia di iscrivere i propri lavoratori all'ente bilaterale e di contribuire a quest'ultimo riconoscendo al contempo la facoltà per la CNCE di sottoscrivere accordi con enti bilaterali stranieri che esentino le imprese da tale obbligo, a condizione che: (i) l'esenzione sia reciproca e (ii) i lavoratori beneficino di una protezione analoga nel Paese di origine. È interessante rilevare che il Protocollo ha stabilito altresì che le imprese distaccanti debbano presentare alla CNCE documenti attestanti il regolare versamento dei contributi previdenziali nel Paese di origine, una misura equivalente alla certificazione sul regolare pagamento dei contributi previdenziali richiesta alle imprese stabilite in Italia per l'esecuzione di lavori edili (DURC). Al fine di facilitare le attività di monitoraggio, è inoltre previsto un processo di scambio di informazioni tra la CNCE e le filiali locali del Ministero del lavoro.

Gli accordi firmati dalla CNCE dedicano pertanto un'attenzione particolare al peso dei contributi dovuti agli enti bilaterali e ad altri prelievi sui salari lordi presenti nei paesi coperti.

Poiché il distacco di lavoratori è soggetto alla legislazione di due paesi allo stesso tempo, questo confronto è stato effettuato per coppie, portando a una serie di accordi transnazionali bilaterali.

Il primo confronto è stato effettuato tra la CNCE e l'ULAK, aprendo la strada ad analoghi esercizi che coinvolgono altre coppie di enti bilaterali e alla sigla dei relativi accordi (da ultimo riguardanti Italia e San Marino). La collaborazione è stata agevolata anche dal supporto delle parti sociali europee nel settore edile.

Aspetti giuridici a livello UE e nazionale che agevolano o ostacolano l'accordo

La base giuridica degli accordi è costituita dalle disposizioni nazionali di recepimento della direttiva sul distacco dei lavoratori, in particolare per quanto concerne il diritto dei lavoratori distaccati a ricevere una retribuzione e a un periodo minimo di ferie annuali retribuite in linea con le disposizioni di legge o dei contratti collettivi in vigore nel Paese ospitante.

Come spiegato nella sezione precedente, in Italia la legittimità degli accordi è riconosciuta anche da un parere del Ministero del lavoro ed, infine, da un Protocollo d'intesa siglato tra il Ministero del lavoro e le parti sociali.

The documents rely both on the Italian acts transposing the Posting of workers Directive and of relevant legislation and case law confirming the applicability of the duty to pay contributions to sectoral funds over all companies performing construction works. Once acknowledged the obligation to register and contribute to the Italian sectoral funds as a rule in case of posting, the Ministry of Labour refers to case law by the Court of Justice of the European Union on the freedom to provide services to stress administrative requirements capable of rendering the provision of services less attractive shall be avoided. Whilst restrictions are allowed in the light of 'reasons of public interests', like the protection of workers, they should not go beyond what is necessary to achieve the pursued aim (the Ministry in particular referred to judgements in Cases C-55/94 and on C-60/03)⁽²⁾. Departing from these considerations, exemptions from the affiliation to the sectoral fund of the host country are considered as legitimate whenever workers enjoy a comparable level of protection in the sending country. Agreements between sectoral funds appear as a particularly appropriate tool to identify these situations as they guarantee reciprocal understanding of the similarity of protection across borders, reducing risks of conflict of laws. While granting a continuity in contributions to funds of the sending country, the agreements maintain all wage elements considered as mandatory at national level.

Actions implemented to address hampers

The signatory parties maintain constant relationships to check companies and declarations. This cooperative dialogue enables to solve cases of irregularities.

Outcomes of the agreement

There are about 1,000 companies posting workers each year from Italy (each posting at least 2-3 workers) and CNCE can certify that these are in compliance with the due payments, both before and during the posting period.

The number of companies using the exemption appears to be increasing over time.

(2) See the above mentioned opinion 24/2007.

I testi si basano sia sulle disposizioni italiane di recepimento della direttiva sul distacco dei lavoratori sia sulla legislazione e giurisprudenza in materia che confermano l'applicabilità dell'obbligo di versamento di contributi agli enti bilaterali in capo a tutte le imprese che svolgono lavori edili.

Una volta riconosciuto l'obbligo di registrazione e contribuzione alle Casse Edili italiane in caso di distacco, il Ministero del lavoro richiama la giurisprudenza della Corte di giustizia dell'Unione europea in materia di libera prestazione di servizi per sottolineare che si devono evitare oneri amministrativi in grado di rendere la fornitura di prestazioni meno attraente. Sebbene le restrizioni siano consentite alla luce di "ragioni d'interesse generale", come la tutela dei lavoratori, esse non dovrebbero andare oltre a quanto necessario per raggiungere l'obiettivo perseguito (il ministero ha in particolare fatto riferimento alle sentenze nelle cause C-55/94 e C-60/03).

In deroga a tali considerazioni, le esenzioni dall'iscrizione all'ente bilaterale del Paese ospitante sono considerate legittime ogniqualvolta i lavoratori godono di un livello di protezione comparabile nel Paese di origine. Gli accordi tra enti bilaterali appaiono come uno strumento particolarmente appropriato per identificare tali situazioni in quanto garantiscono la comprensione reciproca dei simili livelli di protezione disponibili nei paesi coperti, riducendo il rischio di conflitto tra norme. Garantendo la continuità dei contributi agli enti del Paese di invio, gli accordi mantengono l'applicazione di tutti gli elementi della retribuzione ritenuti obbligatori a livello nazionale.

Azioni attuate per affrontare gli ostacoli

Le parti firmatarie mantengono rapporti costanti per il controllo delle imprese e delle dichiarazioni. Questo dialogo cooperativo consente la risoluzione dei casi di irregolarità.

Risultati dell'accordo

Ci sono circa 1.000 imprese che distaccano lavoratori ogni anno dall'Italia (ciascuna per almeno 2-3 lavoratori) e la CNCE può certificare la regolarità contributiva delle stesse, sia prima che durante il periodo di distacco.

Il numero di imprese che utilizzano l'esenzione registra un costante aumento.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

Il Progetto ISA

Il Progetto ISA mira a promuovere e rafforzare la cooperazione internazionale tra le autorità e le parti interessate coinvolte nel distacco di lavoratori nel settore delle costruzioni, favorendo la creazione di accordi di scambio di informazioni per monitorare e facilitare il distacco di lavoratori.

Il progetto si basa sulle pratiche in atto tra gli enti bilaterali in Italia, Germania, Austria e Francia, dove tali enti, sostenuti dai governi, hanno negoziato e concluso con successo accordi che semplificano le procedure necessarie per il distacco di lavoratori all'estero, assicurando al contempo che i datori di lavoro distaccanti rispettino il pagamento degli elementi salariali dovuti (come l'indennità per ferie) e consentendo facilmente la verifica delle informazioni pertinenti nel paese di origine, ove necessario.

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Il progetto viene sviluppato grazie al supporto finanziario della Commissione europea. I pareri qui espressi riflettono solo il parere degli autori.

La Commissione europea non è responsabile per qualsiasi uso che possa essere fatto delle informazioni qui contenute.

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Guidelines

Cooperation agreement on Cooperation and mutual exchange of information between GLI EA under the Ministry of Labour and Social Policy of the Republic of Bulgaria and the Labour Inspection Authority of the Kingdom of Norway

AUTHOR: BULGARIAN CONSTRUCTION CHAMBER (BCC)
February 2021

Risks or concerns addressed by the agreement

Promoting decent work, including tackling undeclared work and achieving equal pay and equal treatment for all workers is a key priority of common interest for both parties that undersigned the agreement, namely the General Labour Inspectorate Executive Agency (GLI EA) placed under the Ministry of Labour and Social Policy of the Republic of Bulgaria and the Labour Inspection Authority of the Kingdom of Norway. The needs and concerns addressed by this Agreements are as follows:

- ensure effective protection of the working conditions of posted workers in both countries;
- recognition that the cooperation between the parties requires its specification in annual projects;
- acknowledgment that good cooperation is based on efficient dialogue and constant exchange of information on the companies and joint inspections of companies, related to both contracting parties to this agreement;
- the necessity for information on labour legislation and laws and regulations on health and safety at work in both countries in order to eliminate risks leading to occupational accidents diseases;
- the need to exchange experience and best practices.

Насоки

Споразумение за сътрудничество и взаимен обмен на информация между ИА ГИТ към Министерството на труда и социалната политика на Република България и Органа за инспекция по труда на Кралство Норвегия

АВТОР: КАМАРА НА СТРОИТЕЛИТЕ В БЪЛГАРИЯ (КСБ)
февруари 2021 г.

ВС

Рискове и въпроси, разгледани в споразумението

Популяризирането на достоен труд, включително справянето с проблема с недекларирания труд и постигането на равно заплащане и равно третиране на всички работници, е ключов приоритет от общ интерес за двете страни, подписали споразумението, а именно Изпълнителната агенция „Главна инспекция по труда“ (ИА ГИТ) към Министерството на труда и социалната политика на Република България и Органа за инспекция по труда на Кралство Норвегия. Нуждите и въпросите, адресирани в настоящото споразумение, са следните:

- гарантиране на ефективна защита на условията на труд на командированите работници в двете страни;
- признаване на необходимостта сътрудничеството между страните да бъде заложено в годишните проекти;
- признаване на това, че доброто сътрудничество се основава на ефикасен диалог и постоянен обмен на информация относно дружествата и съвместните инспекции на дружества, свързани с двете договарящи се страни по настоящото споразумение;
- необходимостта от информация относно трудовото законодателство и законите и подзаконовите актове относно здравословните и безопасни условия на труд в двете страни, с цел да се премахнат рисковете, водещи до професионални заболявания в следствие на злополуки;
- необходимостта от обмен на опит и най-добри практики.

Objectives

The objectives of this Agreements are as follows:

- to share information about the companies operating on the territory of both countries involved concerning:
 - payment and employment conditions,
 - employment irregularities that are found during the inspections,
 - labour rights violations, including cases of undeclared work;
- **to exchange information** on the legal aspects and the type of activities carried out by employers who post workers to either country;
- **to share information and to coordinate joint activities** in the event of occupational accidents with posted workers;
- **to designate a national representative** and a contact point to coordinate the cooperation between them.

In addition, both parties have agreed to plan and implement joint activities, preferably through execution of projects, in the field of:

- cooperation on inspections of companies;
- exchange of good practices, including in the fight against undeclared work;
- broadening their knowledge of the laws and regulations related to payment and working conditions, as well as health and safety at work, related to companies and workers operating or planning to operate in both countries.

Цели

Целите на настоящото споразумение са следните:

- **да се сподели информация** относно дружествата, които извършват дейност на територията на двете държави, относно:
 - условия на заплащане и заетост,
 - нередности в областта на заетостта, които са открити по време на инспекциите,
 - нарушения на трудовите права, включително случаи на недеклариран труд;
- **да се обмени информация** относно правните аспекти и вида на дейностите, извършвани от работодатели, които командирова работници в двете страни;
- **да се обмени информация и да се координират съвместните дейности**, в случай на трудови злоупотреби с командирова работници;
- **да се определи национален представител** и звено за контакт, което да координира сътрудничеството между тях.

Освен това двете страни се споразумяха да планират и осъществяват съвместни дейности, за предпочитане чрез изпълнение на проекти в областта на:

- сътрудничество при инспекциите на дружества;
- обмяната на добри практики, включително в борбата срещу недекларирания труд;
- разширяване на знанията им за законите и наредбите, свързани с условията на труд и заплащане, както и здравословните и безопасни условия на труд, свързани с дружества и работници, които осъществяват или планират да осъществяват дейност в двете страни.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	<p>The efficient functioning of labour inspections empowers workers with stronger knowledge and awareness about their rights and responsibilities.</p> <p>The target-oriented functioning of labour authorities shortens and makes more efficient the solving of cross-border employment issues.</p> <p>This agreement ensures that workers' concerns can be raised, heard and considered at higher level.</p>
Companies:	<p>Above all, the agreement reduces the administrative burden for employers - one of the most discussed issues addressed by companies.</p> <p>From a financial point of view, the agreement could be considered protective, as it reduces the possibility of double payment.</p> <p>The proper functioning of the labour inspections that effectively fight against fraud and against unfair competition is a guarantee for companies. In this way they also better protect companies' rights and contribute to a fair international "playing-field".</p>
Unions:	<p>Efficient labour inspections are a guarantee for trade unions because they monitor and also encourage compliance with the collective agreements in the construction sector.</p>
Employers' organisations:	<p>Labour inspections that effectively tackle unfair competition and undeclared work act as a guarantee for companies and their representing business organizations.</p>
Public institutions:	<p>The agreement provides opportunities for knowledge sharing, easier cross-border inspections and prevention of fraud which are likely to damage tax collection.</p>

Main features

This is an administrative agreement, focused on the exchange of information between the labour inspection authorities of the GLI EA and the Norwegian Labour Inspectorate. Whenever a particular case is a subject of exchange of information via IMI, in accordance with the EU Regulation 1024/2012, related to the cross-border administrative cooperation, and with the Directive on the Posting of Workers 96/71/EC the exchange of information between the undersigned parties is executed via the IMI system for both companies and workers, as well as in the field of cooperation during inspections.

Икономически аргументи' за приемане на споразумението от гледна точка на заинтересованите страни

Работници:	<p>Ефективното функциониране на инспекциите по труда дава на работниците възможност за по-добро познаване и разбиране на техните права и отговорности.</p> <p>Целенасоченото функциониране на органите по труда съкращава и прави по-ефективно решаването на проблемите на трансграничната заетост.</p> <p>Гаранция за работниците, че техните въпроси ще бъдат поставени, разгледани и обсъдени в по-широк контекст.</p>
Дружества:	<p>Споразумението преди всичко смекчава административната тежест за работодателите, което е чест проблем за дружествата.</p> <p>От финансова гледна точка споразумението може да се разглежда като имащо защитен ефект, защото намалява риска от двойно заплащане</p> <p>Правилното функциониране на инспекциите по труда, които ефективно се борят с измамите и нелоялната конкуренция, е гаранция за дружествата. По този начин те също така защитават по-добре правата на дружествата и допринасят за справедливи условия на конкуренция в международен план.</p>
Профсъюзи:	<p>Ефективните инспекции на труда са гаранция за профсъюзите, тъй като следят и насърчават за спазването на колективните трудови договори в строителния сектор.</p>
Организации на работодателите:	<p>Трудовите инспекции, които ефективно се борят с нелоялната конкуренция и недеklarирания труд, действат като гаранция за дружествата и техните представителни бизнес организации.</p>
Обществени институции:	<p>Споразумението предоставя възможности за споделяне на знания, за по-лесни трансгранични инспекции и за предотвратяване на измами, които биха могли да попречат на събирането на данъци.</p>

Основни характеристики

Това е административно споразумение, насочено към обмена на информация между органите за инспекция по труда към ИА ГИТ и Норвежкия инспекторат по труда. Когато даден случай е предмет на обмен на информация чрез Информационната система за вътрешния пазар (ИСВП), в съответствие с Регламент (ЕС) № 1024/2012 относно трансграничното административно сътрудничество, както и с Директивата 96/71/ЕО относно командироването на работници, обменът на информация между подписалите споразумението страни се извършва чрез ИСВП както за дружествата, така и за работниците, а също и в сферата на сътрудничество по време на инспекциите.

Whenever cooperation cannot be performed via the IMI system, the communication between the parties is done through the appointed national representative under strict confidentiality. The IMI system is mostly used for exchange of information on posted workers. It concerns legal aspects of the company posting workers, type of activities, carried out by the company in the country of origin, type of registration in the country of origin, employment conditions and availability of certain documents, required by the host country. In addition, the undersigned parties exchange information on payment conditions and labour violations, related to working-hour limits, workplace conditions, living wages, undocumented workers, labour discrimination, etc. Undeclared work, such as undocumented workers, cash-in-hand and lower social contributions among others, are also part of the information exchange. Health and safety is also an aspect of this Agreement. The undersigned parties share information and coordinate joint activities in the event of occupational accidents with posted workers.

Process of adoption and role of different involved stakeholders

This is a partnership arrangement with transparent rights and obligations required from the contracting parties. The partners take part in: ex-ante coordination, coherence in policy planning, and the development of a clear vision of strategic goals and priorities. The partnership ensures purposeful interaction between them, which guarantees the successful development of activities.

In terms of adoption of this Agreement, the parties have agreed to meet once a year to discuss and evaluate the actions which were executed through this agreement. The meetings are held on a rotational basis. Wherever appropriate, and upon request, the undersigned parties cooperate in the field of company inspections.

EU level and national level legal aspects smoothing or hampering the agreement

No problems were identified in building partnerships at different levels and in different initiatives.

Когато не може да се осъществи сътрудничество посредством ИСВП, комуникацията между страните се осъществява чрез определения национален представител, при строга конфиденциалност. ИСВП се използва предимно за обмен на информация относно командированите работници. Тази информация се отнася до правните аспекти на командированите работници дружество, вида на дейностите, извършвани от дружеството в страната на произход, вида на регистрацията в страната на произход, условията на наемане на работа и наличието на определени документи, изисквани от приемащата държава. Освен това страните по споразумението обменят информация за условията на заплащане, трудовите нарушения, свързани с ограничения на работното време, условията на работното място, минималните трудови възнаграждения, нелегалните работници, трудовата дискриминация и др. Недекларираният труд, както и нелегалните работници, плащането в брой и по-ниските социални осигуровки, наред с останалите въпроси също са част от обмена на информация. Здравето и безопасността също са част от аспектите на настоящото споразумение. Договарящите се страни споделят информация и координират съвместни дейности, в случай на трудови злополуки с командированите работници.

Процес на приемане и роля на заинтересованите страни

Това е споразумение за партньорство с прозрачни права и задължения, изисквани от договарящите се страни. Партньорите участват в: предварителна координация, съгласуваност при планирането на политиките и разработване на ясна визия за стратегически цели и приоритети. Партньорството осигурва целенасочено взаимодействие между страните, което гарантира успешното развитие на дейностите.

По отношение на приемането на настоящото споразумение страните се споразумяха да се срещат веднъж годишно, за обсъждане и оценяване на действията, изпълнени по настоящото споразумение. Заседанията се провеждат на ротационен принцип. Когато е необходимо и при отправено искане, страните по споразумението си сътрудничат в областта на инспекциите на дружества.

Actions implemented to address hampers

Not applicable.

Outcomes of the agreement

The labour inspectorates of Bulgaria and Norway have initiated a joint project “Partnership for decent work” which strengthens the bilateral agreement.

The project “Partnership for Decent Work”, funded by the Fund for Bilateral Relations to the Financial Mechanism of the European Economic Area and the Norwegian Financial Mechanism 2014-2021 includes activities identified as particularly important for the GLI EA and Norwegian Labour Inspectorate. The project activities focus on encouraging decent work through information activities, conducting joint inspections and sharing good practices in close cooperation between the two labour inspectorates. Promoting decent work, including tackling undeclared work and achieving equal pay and equal treatment for all workers, is of common interest for both labour inspectorates. In this regard, an information tool for assessing the risk of undeclared work has been developed and implemented on the new GLI EA website. The specific activities for cooperation between the two labour inspectorates were defined in annual work programs and includes dialogue and on-going exchange of information, joint inspections of enterprises, information on new national laws and regulations, and exchange of experience and best practices.

The project strengthens the bilateral relations between the two Inspectorates in line with the objectives of the bilateral agreement signed between the two institutions, such as:

- ensuring effective protection of working conditions for workers posted by one of the parties to work on the territory of the other;
- strengthening the dialogue and exchange of information on employers, joint inspections of companies, exchange of information on national legislation, as well as exchange of experience and best practices.

The goals of the project are:

1. Promoting decent work for workers and raising the awareness of workers, employers and intermediaries about the work regulations and rules in Norway through an information campaign aimed at specific groups of workers.

Правни аспекти на ниво ЕС и национално ниво, които улесняват или затрудняват споразумението

Не бяха установени проблеми при изграждането на партньорства на различни равнища и в различни инициативи.

Действията, предприети за преодоляване на трудностите

Неприложимо.

Резултати от споразумението

Инспекциите по труда на България и Норвегия инициираха съвместен проект „Партньорство за достоен труд“, който укрепва двустранното споразумение.

Проектът „Партньорство за достоен труд“, финансиран от Фонда за двустранни отношения към Финансовия механизъм на Европейското икономическо пространство и Норвежкия финансов механизъм 2014-2021 г., включва дейности, определени като особено важни за ИА ГИТ и Норвежкия инспекторат по труда. Дейностите по проекта са насочени към насърчаване на достойни условия на труд чрез информационни дейности, провеждане на съвместни инспекции и споделяне на добри практики в тясно сътрудничество между двете инспекции по труда. Насърчаването на достойния труд, включително борбата с недекларирания труд, и постигането на равно заплащане и равно третиране за всички работници, е от общ интерес и за двете инспекции по труда. В тази връзка е разработен и приложен информационен инструмент за оценка на риска от недеклариран труд, който е достъпен на новия уебсайт на ИА ГИТ. Специфичните дейности за сътрудничество между двете инспекции по труда бяха определени в годишни работни програми и включват диалог и постоянен обмен на информация, съвместни инспекции на предприятията, информиране за нови национални закони и разпоредби, обмяна на опит и добри практики.

Проектът укрепва двустранните отношения между двете инспекции в съответствие с целите на двустранното споразумение, подписано между двете институции, като например:

- гарантиране на ефективна защита на условията на труд на работниците, командировани от една от страните на територията на другата страна;
- засилване на диалога и обмяна на информация относно работодатели, съвместни инспекции на дружества, обмен на

2. Improving the knowledge and professional skills of Bulgarian and Norwegian inspectors through close cooperation in carrying out inspections and exchanging information on companies operating on the territory of the two countries in relation to working conditions, irregularities found in employment-related inspections and detected labour rights infringements.
3. Development of a new GLI EA website.
4. Increasing the knowledge of workers and enterprises that work or plan to operate in Bulgaria on labour standards and rules in Bulgaria by developing an information tool for assessing the risk of undeclared work, which will be available on the website of GLI EA.
5. Development and printing of guidelines and information materials on the rights and responsibilities of companies and workers in Bulgaria, aimed at improving their awareness of their rights and obligations in Bulgaria. The guidelines and materials will be developed in Bulgarian and English.

Under the project “Cooperation for Decent Working Conditions”, instead, joint inspections were carried out.

Joint inspections between the labour inspectorates of Bulgaria and Norway were conducted in February 2020. Three large construction sites were inspected, including the construction of the 17th metro station in Sofia. The total number of inspected construction companies on the inspected construction sites was 14. During the inspections, the Bulgarian labour inspectors demonstrated a large part of the scope of their control activity. For instance, administrative acts for suspension of the construction and installation activities were issued when discovering unsecured structural and technological openings established at the construction sites. The Norwegian labour inspectors also observed the interaction of institutions in Bulgaria, as one of the inspections was carried out jointly with the representatives of the National Revenue Agency and the Ministry of Interior.

The broad powers of the Bulgarian Labour Inspectorate, including issuing mandatory prescriptions, issuing suspension acts and seeking administrative liability, differ from the more limited powers of the Norwegian Labour Inspectorate. In Norway, for example, the Inspectorate cannot force employers to pay delayed wages. Instead, these cases are decided in court, requiring the hiring of a lawyer by the employee and is an additional cost for him. Free legal aid can be used only if one is a member of a trade union. Therefore, the Norwegian inspectors are aware of a possible

информация относно националното законодателство, обмяна на опит и най-добри практики.

Целите на проекта са:

1. Насърчаване на достойния труд за работниците и повишаване на осведомеността на работниците, работодателите и посредниците относно нормативните разпоредби и правилата за работа в Норвегия чрез информационна кампания, насочена към конкретни групи работници.
2. Подобряване на знанията и професионалните умения на българските и норвежките инспектори, чрез тясно сътрудничество при провеждане на инспекции и обмен на информация за дружества, развиващи дейност на територията на двете страни, във връзка с условията на труд, констатирани нередности при инспекциите, свързани със заетостта, както и открити нарушения на трудовите права.
3. Разработване на нов уебсайт на ИА ГИТ.
4. Повишаване на знанията на работниците и предприятията, които работят или планират да работят в България, по отношение на трудовите стандарти и правила в България, чрез разработване на информационен инструмент за оценка на риска от недеklarиран труд, който ще бъде на разположение на уебсайта на ИА ГИТ.
5. Разработване и отпечатване на насоки и информационни материали за правата и отговорностите на дружествата и работниците в България, насочени към подобряване на тяхната осведоменост относно правата и задълженията им в България. Насоките и материалите ще бъдат разработени на български и английски език.

По проект „Сътрудничество за достойни условия на труд“ бяха извършени съвместни инспекции.

През февруари 2020 г. бяха проведени съвместни инспекции между инспекциите по труда на България и Норвегия. Проведени са инспекции на три големи строителни обекта, включително и на изграждането на 17-тата метростанция в София. На тези строителни обекти са инспектирани общо 14 строителни дружества.

По време на инспекциите българските инспектори по труда демонстрираха голяма част от обхвата на своята контролна дейност. Например, издадени са административни актове за спиране на строително-монтажните дейности при установяване на строителните обекти на необезопасени структурни и технологични отвори. Норвежките инспектори по труда също наблюдаваха взаимодействието на институциите в България, като една от инспекциите е извършена съвместно с представителите

tension between the expectations Bulgarian workers in Norway based on what they are used to at home, and the Norwegian reality. A good Norwegian practice aimed to improve the effectiveness of the labour inspections is the obligation of construction workers to wear barcode badges, which inspectors can easily read when conducting an inspection to receive information about the person's employment.

A video (“Find out about your employment rights in the Kingdom of Norway”) on the rights of workers in Norway has been developed by the GLI EA. This provides information on living and working conditions in the Kingdom, such as job search, employment contract, posting of workers in Norway, minimum wage levels and more. The video also informs viewers about major Norwegian institutions and centres, from which people can seek information and/or help by connecting them through specific links. The video is aimed at Bulgarian workers already working in Norway or those who intend to look for employment there. The need for creating such an information campaign “Find out about your labour rights in Norway” stems from the fact that labour inspectors in both countries are observing significant ignorance of workers' labour rights, which makes them a potential target of fraud.

The film is published on the website of the GLI EA, as well as on YouTube at the following link: <https://youtu.be/3N9GYmutOB8>.

на Националната агенция за приходите и Министерството на вътрешните работи.

Широките правомощия на българската Инспекция по труда, включително издаването на задължителни предписания, издаването на актове за спиране на дейности и търсенето на административна отговорност, се различават от по-ограничените правомощия на норвежкия Инспекторат по труда. В Норвегия например инспекторатът не може да принуди работодателите да платят забавени заплати. Вместо това тези случаи се решават по съдебен ред, което изисква наемането на адвокат от страна на служителя и е допълнителен разход за него. Безплатна правна помощ може да се използва само, ако съответното лице членува в профсъюз. Поради това норвежките инспектори са наясно за възможното напрежение между българските работници в Норвегия и норвежката реалност, поради очакванията им, основани на правата, с които се ползват у дома.

Една добра норвежка практика, която има за цел да подобри ефективността на инспекциите по труда, е задължението на строителните работници да носят значки с бар код, които инспекторите могат лесно да четат при извършване на проверка, за да получат информация за трудовата заетост на лицето.

ИА ГИТ е организираща заснемането на видео („Какви са вашите трудови права в Кралство Норвегия“) за правата на работниците в Норвегия. То предоставя информация за условията на живот и труд в Кралството, като например търсене на работа, трудов договор, командироване на работници в Норвегия, равнища на минималната работна заплата и др. Видео клипът също така информира зрителите за основните норвежки институции и центрове, от които хората могат да търсят информация и/или които да помогнат, като ги свържат чрез конкретни връзки. Видео е насочено към български работници, които вече работят в Норвегия, или към тези, които възнамеряват да търсят работа там. Необходимостта от създаване на такава информационна кампания „Какви са вашите трудови права в Норвегия“ произтича от факта, че инспекторите по труда в двете страни наблюдават значително невежество по отношение на трудовите права на работниците, което ги прави потенциални обекти на измама.

Филмът е публикуван на уеб сайта на ИА ГИТ, както и в YouTube на следния линк: <https://youtu.be/3N9GYmutOB8>.

Guidelines

Cross-border administrative cooperation agreement between Bulgaria and France signed by the Ministry of Labour and Social Policies of the Republic of Bulgaria and the Ministry of Labour, Social Affairs, Family and Solidarity of the French Republic (now Ministry of Labour, Employment and economic Inclusion)

AUTHOR: BULGARIAN CONSTRUCTION CHAMBER (BCC)
February 2021

Risks or concerns addressed by the agreement

The undersigned parties of this Agreement are the Ministry of labour and Social Politics of the Republic of Bulgaria and the Ministry of labour, Social Affairs, Family and Solidarity of the French Republic (now Ministry of Labour, Employment and Economic Inclusion). The signing of this agreement was prompted by the following:

- the first Directive on the Posting of Workers, 96/71/EC;
- the Resolution of the Council and the Representatives of the Governments of the Member States of 22 April 1999 on a Code of Conduct for improved cooperation between authorities of the Member States concerning the combating of transnational social security benefit and contribution fraud and undeclared work, and concerning the transnational hiring-out of workers;
- the European Commission's recommendations on the cooperation between Member States, formulated in Commission's Communication of 04 April 2006 about posting workers in the framework of providing services, and more specifically the recommendations through which they are invited to take the necessary measures to respond in an

Насоки

Договор за трансгранично административно сътрудничество между България и Франция, подписан между Министерство на труда и социалната политика на Република България и Министерство на труда, социалните дейности, семействата и солидарността на Република Франция (сега Министерство на труда, заетостта и икономическата включеност)

ВС

АВТОР: КАМАРА НА СТРОИТЕЛИТЕ В БЪЛГАРИЯ (ВСС)
февруари 2021 г.

Рискове и въпроси, разгледани в споразумението

Долуподписаните страни по споразумението са Министерство на труда и социалната политика на Република България и Министерство на труда, социалните дейности, семейството и солидарността на Република Франция (сега Министерство на труда, заетостта и икономическата включеност). Подписването на споразумението е стимулирано от следното:

- първата Директива за командироването на работници, 96/71/ЕО;
- Решение на Съвета и представителите на правителствата на държавите-членки от 22 април 1999 г. за Кодекс на поведение за подобряване на сътрудничеството между институциите в държавите-членки относно борбата срещу транснационалните социално-осигурителни придобивки и осигурителни измами и недеklarиран труд и относно транснационалното външно наемане на работници;
- Препоръките на Европейската Комисия за сътрудничество между държавите-членки, формулирани в съобщение на Комисията от 4 април 2006 г. за командироването на работници в рамките на предоставянето на услуги и по-конкретно препоръките, с които те са поканени да предприемат необходимите мерки за ефективен

efficient way to the requests for information and cross-border cooperation from by the competent authorities of other Member States.

The signed agreement aims to develop the provision of services and labour movement between Bulgaria and France under conditions that guarantee:

- protection of workers' rights;
- fair competition between companies;
- the legal certainty of the contractual relationship between the contracting authorities and the service providers.

Objectives

The objective of this agreement is to organize the partnership between the administrative offices of the two countries, responsible for: tackling illegal labour, taking precautionary measures to prevent social fraud, as well as facilitating control over the implementation of social legislation in this framework.

The cooperative activities, carried out for this purpose, cover the following areas:

- implementation and verification, in the context of transnational employment, of the provisions laid down in the relevant Directives;
- tackling undeclared work, specifically when it is a result of a misuse of the legal status regarding posting workers;
- combating abusive labour practices;
- the fight against the employment of third country nationals without work permits.

The agreement specifies the institutions that are actively involved in the exchange of administrative information, namely:

- for Bulgaria - General Labour Inspectorate Executive Agency (GLI EA) under the Minister of Labour and Social Policy of the Republic of Bulgaria;
- for France - the Directorate-General for Employment and Social Affairs, as a bureau for the French Liaison Office, the Labour Inspection Offices under the Ministries responsible for labour and Social policy.

отговор на исканията за информация и транснационално сътрудничество от страна на компетентните органи в други държави-членки.

Подписаното споразумение има за цел разработване на предоставянето на услуги и движение на работната ръка между България и Франция съгласно условия, които гарантират:

- защита на правата на работниците;
- честна конкуренция между дружествата;
- правна сигурност на договорните взаимоотношения между договарящите органи и доставчиците на услуги.

Цели

Целта на това споразумение е да организира партньорството между административните служби на двете страни, отговорни за: борбата с нелегалибия труд, вземането на предпазни мерки за предотвратяването на измами в социалното осигуряване, както и улесняването на контрола върху прилагането на социалното законодателство в тази рамка.

Дейностите по сътрудничество, осъществявани за тази цел, покриват следните области:

- въвеждане и потвърждаване в контекста на транснационална заетост на условията, заложи в съответните Директиви;
- борба с недекларирания труд, особено когато е резултат от злоупотреба с правния статус на командированите работници;
- борба срещу неправомерните трудови практики;
- борба срещу наемането на лица, граждани на трета страна без разрешително за работа.

Това споразумение определя институциите, които са активно включени в обмена на административна информация и в частност:

- за България – Изпълнителна Агенция Главна Инспекция по Труда (ИА ГИТ) към Министерство на труда и социалната политика на Република България;
- За Франция - Главна дирекция заетост и социални въпроси, като бюро на френското бюро за връзки, офисите на инспекцията по труда към министерствата, отговорни за труда и социалната политика.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	<p>The efficient functioning of labour inspections empowers workers with stronger knowledge and awareness about their rights and responsibilities.</p> <p>The target-oriented functioning of labour authorities provides an opportunity to shorten the road from the identification of an employment concern to solving it in an efficient way.</p> <p>Assurance for workers that their concerns could be raised, heard and considered at broader level.</p>
Companies:	<p>Above all the agreement mitigates the administrative burden for employers, which is a frequent concern for companies.</p> <p>From a financial point of view, the agreement can be considered to have a protective effect, since it reduces the risk of double payment.</p> <p>A labour inspection that effectively fights against fraud and against unfair competition is a benefit for companies which enables them to compete better on a level playing-field.</p>
Unions:	<p>Efficient labour inspections are a guarantee for trade unions because they monitor and also encourage compliance with the collective agreements in the construction sector.</p>
Employers' organisations:	<p>Labour inspections that effectively tackle unfair competition and undeclared work act as a guarantee for companies and their representing business organizations.</p>
Public institutions:	<p>This agreement helps undersigned parties to fulfil their institutional aims. Further, it provides opportunities for exchange of experience and makes the process of cross-border inspections easier.</p>

Main features

The main feature of this Agreement is cooperation in the field of prevention, and exchange of information. In terms of the preventive actions, the parties are engaged in joint activities to fight undeclared work by informing the companies and the workers in their local language of their rights and obligations as well as on the legislative requirements in the host country. The focus is to provoke interest to comply with the social rights and obligations in the host country and to raise awareness about any potential risks when a posted worker is not acquainted with local legislation. The actual content and financial aspects of these informative initiatives are suggested by one of the interested parties and are approved during joint

‘Икономически аргументи’ за приемането на споразумение от гледна точка на заинтересованите страни

Работници:	<p>Ефективното функциониране на инспекциите по труда дава на работниците възможност за по-добро познаване и разбиране на техните права и отговорности.</p> <p>Целево-ориентираното функциониране на органите по заетостта осигуряват възможност за скъсяване на пътя от идентифицирането на трудовия въпрос до решаването му по ефективен начин.</p> <p>Гаранция за работниците, че техните въпроси ще бъдат поставени, разгледани и обсъдени в по-широк контекст.</p>
Дружества:	<p>Споразумението преди всичко смекчава административната тежест за работодателите, което е чест проблем за дружествата.</p> <p>От финансова гледна точка споразумението може да се разглежда като имащо защитен ефект, защото намалява риска от двойно заплащане.</p> <p>Инспекцията по труда, която ефективно се бори срещу измамите и нелоялната конкуренция, е от полза за дружествата, като им осигурява по-коректна конкурентност при равни условия.</p>
Профсъюзи:	<p>Ефективните инспекции на труда са гаранция за профсъюзите, тъй като следят и насърчават за спазването на колективните трудови договори в строителния сектор.</p>
Организации на работодателите:	<p>Инспекциите по труда, които ефективно противодействат на нечестната конкуренция и недекларирания труд служат като гаранция за дружествата и представляващите ги търговски организации.</p>
Обществени институции:	<p>Това споразумение помага на долуподписаните страни да реализират своите институционални цели. Също така, осигурява възможност за обмен на опит и улеснява процеса на трансграничните инспекции.</p>

Основни характеристики

Основната характеристика на това споразумение е в сферата на превенцията и обмена на информация. От гледна точка на превантивните действия страните се ангажират в съвместни дейности в борба с недекларирания труд, информирайки дружествата и работниците на техния местен език за техните права и задължения, както и за законовите изисквания в приемащата страна. Фокусът е провокиране на интереса към спазване на социалните права и задължения в приемащата страна и повишаване на осъзнатостта за потенциалните рискове когато командирован работник не познава местното законодателство. Действителното познаване на финансовите аспекти на тези информативни инициативи се предлага

meetings. The implementation of these initiatives is a subject of periodical monitoring assessment and is constantly improved.

The exchange of information is regulated by art. 4 of Directive 96/71/EC and is conducted through the respective points of contact. Each undersigned party is required to inform the other side of useful administrative information which allows checks on the legal aspects of the process of posting. This information may refer to both companies and workers.

Another feature of this Agreement is the exchange of good practices and information between the employees of the undersigned parties. This supports the better understanding of the partner's administration and improves the efficiency of bilateral cooperation. This is done through internships for observation and gathering information. The actual conditions of these internships are discussed on a one-to-one basis. The priority employees are the ones engaged in the implementation of this Agreement. The undersigned parties also exchange information on the legislative changes in their countries.

Process of adoption and role of different involved stakeholders

This Agreement entered into force in May 2008. Each party is expected to raise a flag if there is an issue that needs to be addressed in either of the countries on a regular basis. Each party is free to use their own judgement whenever a meeting needs to be held, a discussion is required, information covered by the agreement is necessary. The results of the joint actions are assessed through annual reports, issued by both parties, containing qualitative and quantitative information, as well as areas of difficulties, and potential solutions. Upon request a discussion meeting can be organised.

EU level and national level legal aspects smoothing or hampering the agreement

No problems were identified in building partnerships at different levels and in different initiatives.

Actions implemented to address hampers

Not applicable.

от една от заинтересованите страни и се одобрява по време на съвместни срещи. Изпълнението на тези инициативи е предмет на регулярен мониторинг за оценка и постоянно подобрене.

Обменът на информация се регламентира от чл. 4 от Директива 96/71/ЕО и се реализира чрез съответните лица за контакт. Всяка подписала споразумението страна трябва да информира другата за полезна административна информация, която дава възможност за проверки на правните аспекти на процеса на командироване. Тази информация може да се отнася и до дружествата, и до работниците. Друга характеристика на това споразумение е обменът на добри практики и информация между работниците на страните по споразумението. Това подкрепя по-доброто разбиране на администрацията на партньора и подобрява ефективността на двустранното сътрудничество. Това става чрез стажове за наблюдение и събиране на информация. Действителните условия на тези стажове се обсъждат индивидуално от партньорите. Приоритетни работници са тези, които са ангажирани с изпълнението на това споразумение. Долуподписаните страни обменят информация също и за законодателните промени в техните държави.

Процес на приемане и роля на заинтересованите страни

Това споразумение е в сила от май 2008 г. Всяка страна се очаква да подаде сигнал в случай, че възникне въпрос, който следва да се решава редовно в която и да е от държавите. Всяка страна има свободата да взема свои решения по време на провеждането на срещи, дискусии и теми, включени в споразумението. Резултатите от съвместните действия се оценяват в годишни доклади, издавани от двете страни, които съдържат качествени и количествени данни, както и затруднения и потенциални решения. При заявка може да се организира дискуссионна среща.

Правни аспекти на ниво ЕС и национално ниво, които улесняват или затрудняват споразумението

Не са установени проблеми при изграждането на партньорства на различни нива и в различни инициативи.

Действия, предприети за преодоляване на затрудненията

Неприложимо.

Outcomes of the agreement

In June 2017 the Operational Annex to the Administrative Cooperation Agreement was signed between Bulgaria and France for cooperation in the fight against undeclared work, aiming at facilitating active cooperation and exchange of good practices.

As a result, in 2019, a meeting was held between the representatives of the Labour Inspectorates of Bulgaria and France, in order to translate into initiatives and projects of joint actions to improve cooperation, and to more effectively protect cross-border workers. In the meeting both parties agreed to the development of joint information materials. These concern pay and working conditions in the two countries, adapted both for control purposes and to inform workers and employers about their rights and obligations. The GLI EA commits itself to remain engaged in editing the Bulgarian version of the documents and information materials developed by the French Inspectorate, intended for employees. The aim is to make their content accessible to workers, as well as to facilitate their communication with the French control authorities. The French inspectorate works on making collective agreements at the national and regional levels available and accessible on the Internet, which must be taken into account by Bulgarian employers sending and posting workers to France.

In addition to that, an agreement was reached to develop a more systematic and intensive data exchange between the two inspectorates. This makes it easier for the GLI EA to identify Bulgarian companies whose workers are employed in France and contributes to more effective protection of workers' rights. The information provided by Bulgaria facilitates the French Labour Inspectorate in detecting cases of unlawful posting more easily and to putting an end to these illegal practices.

With respect to the prevention of unlawful posting of workers in recruitment and counteraction to illegal practices, the GLI EA executed a number of actions to implement the "Operational Annex" signed in 2017, focusing on cross-border cooperation in the fight against undeclared work and abuses of labour rights.

In 2018, a number of joint initiatives with the participation of the labour authorities of both countries were implemented. Within the framework of this transnational cooperation, a number of difficulties and challenges have been articulated and measures have been identified to harmonize control practices. The need to raise employees' rights awareness, including the rights at their workplaces, was identified by conducting questionnaires, drafted in an understandable language, to facilitate the dialogue with

Резултати от споразумението

През юни 2017 г. е подписан Анекс към споразумението за административно сътрудничество между България и Франция за сътрудничество в борбата срещу недекларирания труд, което има за цел улесняване на активното сътрудничество и обмяната на добри практики.

В резултат на това, през 2019 г. е проведена среща между представители на инспекциите по труда на България и Франция с цел да се осъществят инициативи и проекти на съвместни действия за подобряване на сътрудничеството и по-ефективната защита на трансграничните работници. На срещата двете страни се споразумяха за разработването на съвместни информационни материали. Те се отнасят за условията на възнаграждение и условията на труд в двете държави, адаптирани както с цел контрол, така и за информиране на работниците и служителите относно техните права и задължения.

ИА ГИТ се ангажира да продължи редакцията на българската версия на документите и информационните материали, разработени от френската инспекция, предназначени за служителите. Целта е тяхното съдържание да бъде достъпно за работниците, както и да улесни комуникацията им с френските контролни органи.

Френската инспекция работи по изготвянето на колективни споразумения на национално и регионално ниво, които да бъдат на разположение и достъпни в мрежата и които да бъдат взети предвид от българските работодатели, които изпращат и командирова работници във Франция.

Вдопълнение към това е постигнато споразумение за разработването на по-системен обмен на данни между двете инспекции. Това ще улесни ИА ГИТ в идентифицирането на български дружества, чиито работници се наемат във Франция и ще допринесе за по-ефективната защита на правата на работниците. Информацията, предоставена от България, улеснява френската инспекция по труда в по-лесното засичане на случаите на незаконно командироване и прекратяването на незаконните практики.

По отношение на превенцията на незаконното командироване на работници и тяхното наемане и противодействие на незаконните практики, ИА ГИТ предприема редица действия по въвеждането на „Оперативен анекс“, подписан през 2017 г., фокусиран върху трансграничното сътрудничество в борбата срещу недекларирания труд и злоупотребите с трудовите права.

През 2018 г. са реализирани редица съвместни инициативи с участието на органите по труда в двете държави. В рамките на това транснационално сътрудничество са описани множество затруднения и предизвикателства, както и са идентифицирани

the people identified during the inspection. Other difficulties concern the need for: a better knowledge of the legal framework and methods of action, a better understanding of the procedures, sanctions, analysis and processing of documents in each of the two Member States; the promotion of direct exchanges based on trust and enabling mutual and reciprocal learning.

The search for solutions to the challenges identified during the joint actions of both authorities is enshrined in the 2019 Action Program, in the framework of the above-mentioned cooperation, namely by formulating two priority axes for future actions:

- Axis 1: Improving the understanding of posting and information exchange, and
- Axis 2: Strengthening knowledge of the legal framework.

The GLI EA organised and conducted information sessions for Bulgarian citizens working in France, together with the Directorate-General for Employment and Social Affairs of the Republic of France, with the participation of the trade unions from France and Bulgaria. At these meetings, an awareness-raising campaign was held on: the applicable provisions, the French legal framework regarding the legal provision of workers and the provision of services, the risks of labour exploitation and the strengthening of public intolerance of this phenomenon.

The regular meeting of the Steering Committee under the above-mentioned Agreement was held in November 2019. This meeting discussed new challenges in the fight against undeclared and illegal work in cases of cross-border employment, as well as new forms of counteracting bad practices related to unlawful and low-paid labour and forms of labour exploitation.

мерки за хармонизиране на практиките по осъществяване на контрол. Необходимостта от повишаване на осведомеността от страна на работниците на техните права, включително правата на работното им място, бе определена с помощта на въпросници, съставени на разбираем език, с цел да се улесни диалога с лица, идентифицирани по време на проверката. Други затруднения се отнасят до необходимостта от: по-добро познаване на правната рамка и начини на действие, по-добро познаване на процедурите, санкциите, анализа и обработката на документи във всяка от двете държави-членки; подкрепа на директния обмен на основата на доверие и улесняване на взаимното и реципрочното учене.

Търсенето на решения на предизвикателствата, идентифицирани по време на съвместните дейности на двата органа, е осъществено по Програмата за действие 2019 в рамките на горепосоченото сътрудничество, а именно чрез формулиране на две приоритетни оси за бъдещи действия:

- Ос 1: Подобряване на разбирането за командироване и обмен на информация и
- Ос 2: Повишаване на познаването на правната рамка.

ИА ГИТ организира и провежда информационни сесии за българските граждани, работещи във Франция заедно с Генерална дирекция заетост и социални дейности на Република Франция с участието на профсъюзи от Франция и България. На тези срещи е реализирана кампания по повишаване на осъзнатостта за: приложимите условия, френската правна рамка относно правните условия за работниците и предоставянето на услуги, рисковете от трудова експлоатация и повишаване на обществената нетолерантност към този феномен.

Редовното заседание на постоянната комисия по горепосоченото споразумение е проведена през ноември 2019 г. На тази среща са обсъдени новите предизвикателства в борбата срещу недеklarирания и незаконен труд в случаите на трансгранична заетост, както и нови форми на противодействие на лошите практики, свързани с незаконен и нископлатен труд и форми на трудова експлоатация.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

За проекта

Целта на проекта ISA е да стимулира и засили транснационалното сътрудничество между институциите и заинтересованите участници, които участват в процеса на командироване на работници в строителния сектор, като популяризира въвеждането на споразумения за обмен на информация, имащи за цел да контролират и улесняват командироването на работници.

Проектът ще се базира на действащи практики между секторни фондове в Италия, Германия, Австрия и Франция, където секторните фондове, обезпечени от правителствата, договорените и успешно сключени договори, опростяват процедурите, свързани с командироването на работници в чужбина, гарантирайки същевременно, че работодателите, които командироваат работници в чужбина, спазват изискванията за плащане на дължимите елементи на възнагражденията (като платен отпуск) и позволяват лесна проверка на свързаната с това информация в изпращащата държава когато възникне такава необходимост.

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Проектът е осъществен с финансовата подкрепа на Европейската Комисия.

Изразените становища изразяват позициите на авторите.

Европейската Комисия не носи отговорност за използването на съдържащата се тук информация.



ES



Guidelines

Cross-border cooperation agreement between the Labour inspectorates of Spain and France

AUTHOR: NOTUS ASR
November 2020

Risks or concerns addressed by the agreement

The Bilateral Agreement between France and Spain on Cooperation for the transnational posting of workers and the prevention of undeclared work, was signed on 26 April 2019, replacing the previous Agreement signed on 22 September 2010. It includes a Common Statement between the Labour and Social Security Inspectorate under the Ministry of Labour, Migration and Social Security of the Kingdom of Spain and the Directorate General for Employment of the French Republic. It regards cooperation in the field of Transnational posting of workers and the prevention of undeclared work.

The main risks and concerns addressed are:

- The need to ensure an efficient protection of employment, health, safety, hygiene and working conditions for posted workers so they can carry out their work in French or Spanish territory, as well as to reduce the risk factors that lead to occupational accidents or disease
- The need to ensure the protection of the workers' rights in cases of undeclared work
- The need to ensure the compliance with the Posting of Workers Directive (Directive 96/71/EC)
- The compliance with Regulation EU 1024/2012 on administrative cooperation through the Internal Market Information System (Regulation IMI).

Acuerdo de cooperación transfronterizo entre las Inspecciones de Trabajo de España y Francia

AUTORA: JULIA FRÍAS
Febrero 2021

Riesgos o preocupaciones que aborda el acuerdo

El Convenio bilateral entre Francia y España sobre cooperación en materia de desplazamiento transnacional de trabajadores y la prevención del trabajo no declarado, firmado el 26 de abril de 2019, y que sustituye al anterior Acuerdo de 22 de septiembre de 2010, Incluye una Declaración Común entre el Organismo Estatal Inspección de Trabajo y Seguridad Social, adscrito al Ministerio de Trabajo Migraciones y Seguridad Social del Reino de España y la Dirección General de Trabajo de la República Francesa relativo a la cooperación en materia de desplazamiento transnacional de trabajadores y la prevención del trabajo no declarado

Los principales riesgos y preocupaciones que aborda el acuerdo son los siguientes:

- La necesidad de asegurar una protección eficaz del empleo, la salud, la seguridad, la higiene y las condiciones de trabajo de los trabajadores desplazados para realizar sus tareas en el territorio de Francia o en el territorio de España, así como disminuir los factores de riesgo de los accidentes de trabajo y las enfermedades profesionales
- La necesidad de asegurar la protección de los derechos de los trabajadores en situación de trabajo no declarado.
- La necesidad de asegurar el cumplimiento de la directiva comunitaria 96/71/CE relativa a Desplazamiento transnacional de trabajadores.
- El cumplimiento de del reglamento 1024/2012 del Parlamento Europeo y del Consejo de 25 de octubre de 2012 en lo que se refiere a la cooperación administrativa mediante el intercambio de sistemas de información del Mercado Interior (decisión 2008/49/CE Reglamento IMI

Objectives

The objectives established in the Common Statement, included in the Cooperation Agreement, are as follows:

- 1) Improving the collaboration, coordination and the exchange of information with the purpose of providing a more efficient response, especially in the case of occupational accidents suffered by posted workers in Spain or in France
- 2) Improving the reciprocal knowledge of the Spanish and French National Authorities, including the way they work and of the legal framework applicable in each country
- 3) Improving the detection mechanisms and action procedures of the Labour Inspectorates against the phenomenon of “Letterbox companies” that operate in both countries, as well as the situation of fraud regarding the posting of workers or undeclared work
- 4) Improving the monitoring procedures for the Internal Market Information System (IMI) with the aim of processing information requests in a faster and more efficient manner
- 5) Increasing the Exchange of information regarding the impact and the results of the activity of the inspections on Spanish or French businesses, according to the obligations of Directive 96/71/EC (Law 6451/1996), as modified by Directive 2018/957/EU ,and the Enforcement Directive 2014/67/EU
- 6) Reinforcing employees and employers’ knowledge of the legal regulations applicable to their specific situation
- 7) Promoting the exchange of information on areas of common interest with the purpose of achieving a better European coordination.

Objetivos

Los objetivos que plantea la Declaración Común incluida en el acuerdo de cooperación firmado son los siguientes:

- 1) Mejorar la colaboración, la coordinación y el intercambio de informaciones con el fin de dar una respuesta más eficaz, especialmente en casos de accidentes de trabajo relativos a los trabajadores desplazados en España o en Francia.
- 2) Mejorar el conocimiento recíproco de las autoridades nacionales Españolas y francesas, de su modo del funcionamiento y el marco jurídico aplicable en cada país.
- 3) Mejorar los mecanismos de detección y los procedimientos de acción de la inspección de trabajo frente al fenómeno de las “empresas buzón”, que operan en los dos Estados, así como las situaciones de fraude en materia de desplazamiento o de trabajo no declarado.
- 4) Mejorar el procedimiento de seguimiento del Sistema de Información del Mercado Interior (IMI) con vistas a tratar más rápida y eficazmente las solicitudes de información.
- 5) Incrementar el intercambio de informaciones en relación con el impacto y los resultados de la actividad de la inspección de trabajo relativos a las empresas españolas o francesas conforme a las obligaciones de la Directiva 96/71 (LA LEY 6451/1996) modificada por la Directiva 2018 / 957 y la Directiva de aplicación 2014 / 67.
- 6) Reforzar el conocimiento por parte de empleadores y empleados de las respectivas regulaciones legales aplicables a su situación particular.
- 7) Promover el intercambio de informaciones sobre asuntos de interés común con vistas a una mejor coordinación en el plano europeo.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	Better knowledge of both Labour inspectorates, thanks to the exchange of information between the two bodies, improving information on the posted workers in both countries.
Companies:	Better knowledge of both Labour inspectorates, thanks to the exchange of information between the two bodies, improving the information of the companies that post workers in both countries.
Unions:	Ensuring the rights of posted workers is a success for trade unions.
Employers' organisations:	For Employer's organizations, ensuring the compliance of legislation for posted workers is an asset to prevent unfair competition.
Institutional actors:	Awareness of inspection staff.

Main features

It is an Agreement, mainly of an administrative nature, to reinforce the bilateral relations between both National Labour Inspectorates and to create a framework for the sustainable development of joint activities.

Process of adoption and role of different involved stakeholders

The signature of the Agreement stems from the update of the agreement signed on 22 September 2010, and the need to adapt to the new EU provisions on posting.

First of all, a National Dialogue Committee was created to reinforce bilateral relations between France and Spain.

Furthermore, the designation of Proximity Correspondents, identified within the territorial services and in the liaison offices that correspond in every country to the Inspection Services was created.

“Caso de Estudio” para la adopción del acuerdo desde el punto de vista de las partes interesadas

El acuerdo responde a las siguientes necesidades:

Trabajadores:	El mejor conocimiento entre ambas Inspecciones de Trabajo, debido al intercambio de información entre las dos Autoridades, redundará en la mejora de la información de los trabajadores desplazados en ambos países
Empresas	El mejor conocimiento entre ambas Inspecciones de Trabajo, debido al intercambio de información entre las dos Autoridades, redundará en la mejora de la información de las empresas que desplazan trabajadores en ambos países.
Sindicatos	Garantizar los derechos de los trabajadores desplazados es un éxito para las organizaciones sindicales
Organizaciones patronales	Para las organizaciones de empleadores el garantizar el cumplimiento de la legislación para los trabajadores desplazados es una garantía para evitar la competencia desleal
Fondos Sectoriales :	N.A.
Actores Institucionales	N.A

Características principales

Es un acuerdo de carácter principalmente administrativo para reforzar las relaciones bilaterales entre ambas Autoridades Centrales de Inspección de Trabajo y un marco para el desarrollo sostenible de actividades conjuntas.

Proceso de adopción de los acuerdos y papel de las diferentes partes interesadas

Para la firma de este acuerdo se parte de la Actualización del Acuerdo de 22 de septiembre de 2010, mediante la adaptación a la nueva estructura del Estado Regional Francés y adaptación a nueva normativa, tanto a nivel de la UE como a nivel de los Estados firmantes de este acuerdo, en esta materia.

En primer lugar se procede a la creación de un comité nacional de diálogo para reforzar las relaciones bilaterales España -Francia.

A continuación, se procedió a la designación de corresponsales de proximidad identificados en el seno de los servicios territoriales y en las oficinas de enlace que corresponden en cada país a los servicios de Inspección.

The competent authorities designated by France are:

- The Directorate General for Labour, as a national liaison office for all the non-border regions within the Kingdom of Spain and for the border regions when the decentralised offices do not correspond at both sides of the border
- The Regional Department of Enterprise, Competition, Consumer affairs, Labour and Employment of the Occitania Region, for the border area that covers:
 - in France, the territory of the Occitania Region;
 - in Spain, the territory of the Autonomous Communities of Aragon and Catalonia.
- The Regional Department of Enterprise, Competition, Consumer affairs, Labour and Employment of the Nouvelle-Aquitaine Region, for the border area that covers:
 - in France, the territory of the Nouvelle-Aquitaine Region;
 - in Spain, The territory of the Autonomous Communities of the Basque Country and Navarre.

The competent authorities designated by Spain are:

- The National Directorate of The Labour and Social Security Inspectorate as the central authority in labour inspection and social security, as a national liaison office for all the non- border regions with the Kingdom of Spain and for the border regions when the decentralised offices do not correspond at both sides of the border
- The Regional Directorate of The Labour and Social Security Inspectorate from the Autonomous Community of Aragon, for the border area that covers:
 - in Spain, the territory of the Autonomous Community of Aragon;
 - in France, the territory of the Occitania Region.
- The Regional Directorate of The Labour and Social Security Inspectorate from the Autonomous Community of Catalonia, for the border area that covers:
 - in Spain, the territory of the Autonomous Community of Catalonia;
 - in France, the territory of the Occitania Region.
- The Regional Directorate of The Labour and Social Security Inspectorate from the Autonomous Community of the Basque Country, for the border area that covers:
 - in Spain, the territory of the Autonomous Community of the Basque Country;
 - in France, the territory of the Nouvelle-Aquitaine Region.

Las autoridades competentes designadas por Francia son:

- La Dirección General de Trabajo en tanto que oficina de enlace nacional para todas las regiones no fronterizas con el Reino de España y para las zonas fronterizas cuando las oficinas de enlace desconcentradas no se correspondan a ambos lados de la frontera.
- La Dirección Regional de Empresas, Competencia, Consumo, Trabajo y Empleo de la región de Occitania, para la zona fronteriza que comprende:
 - Respecto a Francia, el territorio de la región de Occitania.
 - Respecto a España, el territorio de las comunidades autónomas de Aragón y Cataluña.
- La Dirección Regional de Empresas, Competencia, Consumo, Trabajo y Empleo de la región de Nueva Aquitania, para la zona fronteriza que comprende:
 - Respecto a Francia, el territorio de la región de Nueva Aquitania.
 - Respecto a España, el territorio de las Comunidades Autónomas de País Vasco y Navarra.

Las autoridades competentes designadas por España son:

- La Dirección del Organismo Estatal Inspección de Trabajo y Seguridad Social como Autoridad Central de la Inspección de Trabajo y Seguridad Social, en tanto que oficina nacional de enlace para las zonas no fronterizas con Francia y para las zonas fronterizas cuando las oficinas de enlace desconcentradas no se correspondan a ambos lados de la frontera.
- La Dirección Territorial del Organismo Estatal Inspección de Trabajo y Seguridad Social de la Comunidad Autónoma de Aragón para la zona fronteriza que comprende:
 - Respecto a España, el territorio de la Comunidad Autónoma de Aragón.
 - Respecto a Francia, el territorio de la región de Occitania.
- La Dirección Territorial del Organismo Estatal Inspección de Trabajo y Seguridad Social de la Comunidad Autónoma de Cataluña para la zona fronteriza que comprende:
 - Respecto a España, el territorio de la Comunidad Autónoma de Cataluña.
 - Respecto a Francia, el territorio de la región de Occitania.
- La Dirección Territorial del Organismo Estatal Inspección de Trabajo y Seguridad Social de la Comunidad Autónoma de País Vasco para la zona fronteriza que comprende:
 - Respecto a España, el territorio de la Comunidad Autónoma de País Vasco.
 - Respecto a Francia, el territorio de la región de Nueva Aquitania.

- The Regional Directorate of The Labour and Social Security Inspectorate from the Autonomous Community of Navarre, for the border area that covers:
 - in Spain, the territory of the Autonomous Community of Navarre;
 - in France, the territory of the Nouvelle-Aquitaine Region.

Functions:

The functions of these correspondents are to prepare and contribute to the implementation of the programme of activities defined by the National Dialogue Committee.

The Immediate operative cooperation actions are:

- 1) The creation of a yearly programme of activities among the parties
- 2) The organization of briefings and the exchange of information materials regarding the French and Spanish legislations, aimed at employees and employers, employers' organizations and trade unions, in the field of posted workers and undeclared work
- 3) The exchange of methodological materials, targeting labour inspectorates and their institutional partners, with the purpose of facilitating mutual knowledge and the understanding of their respective operational frameworks and the legal developments in each country
- 4) Organising the participation of control agents from the Labour Inspectorates from France and of inspectors and deputy inspectors of the National Labour and Social Security Inspectorate from Spain, as observers, in coordinated controls in France or in Spain

The planning of the activities to be carried out and a clear schedule to be completed on a yearly basis.

EU level and national level legal aspects smoothing or hampering the agreement

None.

Actions implemented to address hampers

N/A

- La Dirección Territorial del Organismo Estatal Inspección de Trabajo y Seguridad Social de la Comunidad Autónoma de Navarra para la zona fronteriza que comprende:
 - Respecto a España, el territorio de la Comunidad Autónoma de Navarra.
 - Respecto a Francia, el territorio de la región de Nueva Aquitania.

Funciones

Funciones de estos corresponsales es de preparar y contribuir a la puesta en práctica del programa de actividades definido por el comité nacional de diálogo.

Las acciones de cooperación operativa inmediata son:

- 1) Elaboración de un programa de actividades anual entre las Partes.
- 2) Organización de sesiones informativas e intercambio de materiales de información de las legislaciones francesa y española destinadas a empleadores y empleados y a las organizaciones profesionales de empleadores y sindicales en materia de desplazamiento de trabajadores y de trabajo no declarado.
- 3) Intercambio de materiales metodológicos destinados a las inspecciones de trabajo y a sus socios institucionales con el fin de favorecer el conocimiento mutuo y la comprensión de los marcos de intervención respectivos y las evoluciones jurídicas operadas en cada país.
- 4) Organizar la participación de agentes de control de la Inspección de Trabajo de Francia, y de Inspectores y Subinspectores del Organismo Estatal Inspección de Trabajo y Seguridad Social de España como observadores en controles coordinados en Francia o en España.

Anualmente se procederá a la planificación de las actividades a llevar a cabo con un calendario preciso de las mismas.

Aspectos jurídicos a nivel de la UE y nacional que facilitan o dificultan el acuerdo

No se ha identificado ningún aspecto que ayude o dificulte el acuerdo.

Acciones implementadas para hacer frente a los obstáculos

Nada que destacar.

Outcomes of the agreement

This is one of the youngest cooperation agreements, since it was signed on 26 April 2019. Nonetheless, on 18 September 2019, Madrid held the first bilateral meeting between the two authorities regarding cooperation in the field of the posting of workers and the prevention of undeclared work, dealing, among other issues, with the creation of the National Dialogue Committee and the planning of joint activities to be developed in 2019-2020.

Given the Covid-19 crisis, it has not been possible to develop the action plans as foreseen. However, amidst the pandemic, meetings and videoconferences were held to share the measures and actions implemented in each country.

Resultados del Acuerdo

Este es uno de los acuerdos de cooperación más jóvenes ya que se firmó en el 26 de abril de 2019, no obstante, el 18 de septiembre de 2019, se celebró en Madrid, la primera reunión bilateral entre ambas Autoridades, en relación con la cooperación en materia de desplazamiento transnacional de trabajadores y la prevención del trabajo no declarado, tratándose entre otras cuestiones de la constitución del Comité Nacional de Diálogo y el plan de actividades conjuntas a desarrollar en 2019 – 2020.

Dada la crisis de la covid 19 no ha sido posible desarrollar los planes de acción previstos tal y como se habían planificado. No obstante, con la aparición de la pandemia se han desarrollado reuniones y videoconferencias para poner en común las medidas y actuaciones que se estaban decretando en cada país.

Guidelines

Cross-border cooperation agreement between the Spanish and the Portuguese Labour Inspectorates

AUTHOR: NOTUS ASR
November 2020

Risks or concerns addressed by the agreement

As of the publication of the first Directive on the posting of workers, in December 1996 (Directive 96/71/EC), an appeal to the authorities of Spain and Portugal was made by European authorities, urging them to actively collaborate to respond to the different situations that were occurring in the two countries with the increase in cross-border service provision. This call for collaboration was never formalized in any official documents and the content for such collaboration was not made explicit.

On 30 November 1998, a Declaration of Intentions on Cooperation and Technical Assistance in Labour and Social Affairs was signed between the Ministry of Labour and Social Affairs of the Kingdom of Spain and then the Ministry of Labour and Solidarity of the Republic of Portugal. In order to give content to this collaboration, a working team was formed that was in charge of designing this collaboration agreement.

In the Portuguese-Spanish summit of 2002, the cooperation agreement in force until today was signed.

One of the greatest strengths attributed to this agreement has been that, despite the governmental changes in both countries, this agreement has remained in place.

Beside the intense flow of cross-border workers and the peak in the provision of transnational services following the approval of the Posting of Workers Directive, the agreement stems from concerns about:

- a) The existing information deficit:
 - About companies: real or fictitious, on either side of the border that provide such services

Acuerdo de cooperación transfronterizo entre las inspecciones de trabajo de España y Portugal

AUTORA: JULIA FRÍAS
Febrero 2021

Riesgos o preocupaciones que aborda el acuerdo

A partir de la publicación de la primera directiva sobre desplazamiento de trabajadores, en diciembre de 1996, se hace un llamamiento a las autoridades de España y Portugal exhortándoles a colaborar activamente entre los dos países para dar respuesta a las diferentes situaciones que se están produciendo en los dos países con el incremento de prestación transfronteriza de servicios. Este llamamiento a la colaboración no se explicita con ningún contenido para dicha colaboración.

El 30 de noviembre de 1998 se firmó una Declaración de Intenciones sobre Cooperación y Asistencia Técnica en materia Laboral y de Asuntos Sociales entre el Ministerio de Trabajo y Asuntos Sociales del Reino de España y el entonces Ministerio de Trabajo y de Solidaridad de la República de Portugal, para dar contenido a esa colaboración se constituye un equipo de trabajo que fue el encargado de diseñar dicho acuerdo de colaboración.

En la cumbre hispano lusa de 2002 se firma el acuerdo de cooperación vigente hasta la actualidad.

Una de las mayores fortalezas que se le atribuye a este acuerdo ha sido que, a pesar de los cambios gubernamentales acaecidos en uno y otro país este acuerdo no ha dejado de funcionar en ningún momento. Además del intenso flujo de trabajadores transfronterizos y el auge de la prestación de transnacional tras la aprobación de la Directiva sobre el desplazamiento de trabajadores, el acuerdo surge de la preocupación por:

- a) El déficit de información existente:
 - Sobre las empresas: reales o ficticias, a uno y otro lado de la frontera que prestan dichos servicios.,

- About the activity carried out by these companies
 - About the employment relationship established with the workers who perform the services: qualification, working hours, salary, bonuses, etc.
 - Regarding Social Security: registration status in SS, contributions, and where the contributions are made; and
- b) Difficulties in both countries to guarantee the enforceability of the sanctioning measures adopted due to:
- Contribution or salary differences
 - Differences in surcharge on benefits

All these aspects led the two authorities to consider the need to sign an agreement.

It is based on the conviction that cooperation will reduce the information deficits detected and, thus, the agreement designs and also organizes the form and procedures for carrying out the successive activities derived from the inspection activities in both countries.

Objectives

The general objective of the agreement is to facilitate cooperation when implementing Directive 96/71/EC. Correct application of the directive requires close cooperation between the two countries. The following specific objectives are therefore established:

Firstly. Establishment of a permanent collaboration framework, which will be annually reviewed, in the following areas of action:

1. Occupational Health and Safety
2. Work Accidents
 - a) Reports of accidents at work
 - b) Immediate notification of the accident report
3. Work permit for non-EU citizens
4. Prior verification actions and disciplinary proceedings with companies domiciled in the neighbouring country
 - a) Citations, requests for documentation, notification of requirements and other actions that require the location of the company and identification of its legal representative
 - b) Notification of infraction records
5. Exchange of information on the flow of workers
6. Cooperation and assistance derived from Directive 96/71 /EC (Law 6451/1996), on the posting of workers in the framework of the provision of transnational services, in the field of information

- Sobre la actividad que desarrollan dichas empresas.
 - Sobre la relación laboral establecida con los trabajadores que realizan las prestaciones de servicios: cualificación, jornada, salario, pluses, etc
 - En materia de Seguridad Social: situación de alta en SS, cotizaciones, y donde realizan dichas cotizaciones
- b) Dificultades en ambos países para garantizar la ejecutividad de las medidas sancionadoras adoptadas debido a:
- Diferencias de cotización o salariales
 - Diferencias de recargo en las prestaciones.

Todos estos aspectos llevan a considerar a las dos administraciones, la necesidad de la firma de un acuerdo.

Se parte del convencimiento de que la cooperación mejorará los déficits de información detectados y por tanto, el acuerdo diseña y organiza la forma y los procedimientos para la realización de las sucesivas actividades derivadas de la acción inspectora en ambos países.

Objetivos

El objetivo general es facilitar la cooperación a la hora de aplicar la directiva comunitaria 96/71/. Una correcta aplicación de la directiva requiere de una estrecha cooperación entre los dos países. Se establecen, por tanto, los siguientes objetivos específicos:

Primero. Establecer un marco de colaboración permanente, que será objeto de revisión anual, en los siguientes ámbitos de actuación:

1. Seguridad y Salud en el Trabajo.
2. Accidentes de Trabajo.
 - a) Informes de accidentes de trabajo.
 - b) Notificación inmediata del parte de accidente.
3. Permiso de trabajo de ciudadanos extracomunitarios.
4. Actuaciones comprobatorias previas y procedimiento sancionador con empresas domiciliadas en el país vecino.
 - a) Citaciones, solicitudes de documentación, notificación de requerimientos y demás actuaciones que exijan la localización de la empresa e identificación de su representante legal.
 - b) Notificación de actas de infracción.
5. Intercambio de información sobre los flujos de trabajadores.
6. Cooperación y asistencia derivada de la Directiva 96/71/CE (Ley 6451/1996), sobre desplazamiento de trabajadores en el marco de una prestación de servicios transnacional, en materia de información.

Secondly. Establishment of direct communication links in the terms expressed in the first point according to the following criteria:

1. Direct communication between the bordering regional authorities

Initially the direct communication points established on both sides of the border were:

- Territorial Director of Galicia (ES) - Delegate of Viana do Castelo and Vila Real (PT)
- Territorial Director of Castilla y León (ES) - Delegates of Braganza, Guarda and Covilha (PT)
- Territorial Director of Extremadura (ES) -Delegates of Castelo Branco, Portalegre and Évora (PT)
- Territorial Director of Andalusia (ES) - Delegates of Beja and Faro (PT)

Currently, the same points are maintained by Spain, coinciding with the territorial inspections of the border provinces in Spain. In Portugal, after a new administrative reorganization, these territorial points have changed, becoming local information centres, spread throughout the country.

2. Direct communication between central authorities

- Concerning Spain: State Agency for Labour Inspection and Social Security. General Sub-Directorate of Institutional Relations and Technical Assistance
- Concerning Portugal: The Working Conditions Authority (Autoridade para as Condições do Trabalho, ACT).

Third. Creating a Mixed Monitoring Commission

This inter-administrative monitoring committee must ensure compliance with the agreement, define the agenda and specify the measures to be adopted. It serves as a liaison body for the exchange of information and cooperation between the authorities and the inspection bodies of both states.

With the entry in force of Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (“IMI Regulation”), it was agreed to channel requests concerning posting through the IMI system rather than through communications between the liaison persons identified in the agreement. Yet, the exchange of information through IMI occurs between persons at the Central Authorities (not employed at provincial or local level). This does not prevent the liaison authorities in the border regions from continuing to communicate with each other in the development of other cooperation activities (e.g. joint visits). However, the sending and replying to requests for information on posting for inspection purposes is managed at central level, normally after the necessary inspections have been carried out at regional level.

Segundo. Establecer enlaces directos de comunicación en los términos expresados en el punto primero conforme a los siguientes criterios:

1. Comunicación directa entre las autoridades regionales limítrofes.

Inicialmente los puntos de comunicación directos establecidos a uno y otro lado de la frontera eran:

- Director territorial de Galicia (ES)- Delegado de Viana do Castelo y Vila Real (PT)
- Director territorial de Castilla y León (ES)- Delegados de Braganza, Guarda y Covilha(PT)
- Director territorial de Extremadura (ES)-Delegados de Castelo Branco, Portalegre y Évora (PT)
- Director territorial de Andalucía (ES) - Delegados de Beja y Faro (PT)

En la actualidad por parte de España se mantienen los mismos puntos, coincidentes con las direcciones territoriales de la inspección de las provincias fronterizas en España. En Portugal, a partir de una nueva reorganización administrativa, esos puntos territoriales han cambiado, convirtiéndose en centros locales de información, repartidos a lo largo del País.

2 Comunicación directa entre las autoridades centrales.

- Por parte de España: Organismo Estatal de la Inspección de Trabajo y de la Seguridad Social. Subdirección general de Relaciones Institucionales y Asistencia Técnica.
- Por parte de Portugal: La Autoridade para as Condições do Trabalho, ACT

Tercero. Crear una Comisión Mixta de Seguimiento.

Esta comisión interadministrativa de seguimiento deberá velar por el cumplimiento del acuerdo, definir la agenda y concretar las medidas a adoptar. Servirá de órgano de enlace para el intercambio de información y la cooperación entre las autoridades y los órganos de inspección de ambos estados.

Con la entrada en vigor del Reglamento (UE) n ° 1024/2012 relativo a la cooperación administrativa a través del Sistema de Información del Mercado Interior («Reglamento IMI»), se ha descargado de forma sustancial el trabajo que anteriormente desarrollaban las delegaciones provinciales de la inspección, y los puntos locales de información. Con este sistema son los usuarios registrados los que incluyen las consultas. No obstante, cuando es necesario se recurre a dichos puntos territoriales para recabar información pertinente.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	The proper functioning of labour inspection guarantees better attention for workers. More proximity to raise problems. Better understanding of the problem by the authorities.
Companies:	The proper functioning of the labour inspection that effectively fights against fraud and against unfair competition is a guarantee for companies.
Unions:	The proper functioning of the inspection is a guarantee for organizations that represent workers.
Employers' organisations:	The proper functioning of labour inspection that effectively fights against fraud, against unfair competition, is a guarantee for companies and for organizations that represent them.
Institutional actors:	Awareness of inspection staff.

Main features

- It is an administrative agreement.
- Focused on the exchange of information between the labour inspection authorities of Spain and Portugal.
- Based on the need for cooperation between both countries.

Process of adoption and role of different involved stakeholders

The cooperation agreements were established from the point of view of the public administrations involved to meet the objectives and interests of the administrations concerned.

On the Spanish side, the agreement is followed by the State Agency for Labour Inspection and Social Security. General Sub-Directorate of Institutional Relations and Technical Assistance.

In the case of Portugal, the commission depends on ACT.

Agreement governance:

Inter-administrative monitoring commission:

- It meets annually
- It is chaired alternately by each country annually
- The commission has antennas in the border regions: Galicia, Castilla y León, Andalucía and Extremadura

“Caso de Estudio” para la adopción del acuerdo desde el punto de vista de las partes interesadas

Trabajadores:	Un buen funcionamiento de la inspección de trabajo garantiza una mejor atención a los trabajadores. Más proximidad para plantear los problemas. Más comprensión de la problemática por parte de las autoridades.
Empresas	Un buen funcionamiento de la inspección de trabajo que luche de forma efectiva contra el fraude y contra la competencia desleal, es una garantía para las empresas
Sindicatos	El buen funcionamiento de la inspección es una garantía para las organizaciones que representan a los trabajadores
Organizaciones patronales	Un buen funcionamiento de la inspección de trabajo que luche de forma efectiva contra el fraude, contra la competencia desleal, es una garantía para las empresas y para las organizaciones que las representan
Fondos Sectoriales :	N.A.
Actores Institucionales	N.A.

Características principales

- Es un acuerdo de carácter administrativo.
- Centrado en el intercambio de información entre las autoridades de inspección laboral de España y Portugal.
- Basado en la necesidad de cooperación entre ambos países.

Proceso de adopción de los acuerdos y papel de las diferentes partes interesadas

Los convenios de colaboración, se establecieron desde el punto de vista de las administraciones públicas implicadas y para satisfacer los objetivos e intereses de las administraciones afectadas.

Por parte Española el acuerdo es seguido desde el Organismo Estatal de la Inspección de Trabajo y de la Seguridad Social. Subdirección general de Relaciones Institucionales y Asistencia Técnica.

En el caso de Portugal la comisión depende de La Autoridade para as Condições do Trabalho, ACT.

Gobernanza del acuerdo:

Comisión interadministrativa de seguimiento:

- Methodologies and tools are established to expedite information exchanges.

Commission's functions:

- Resolve the incidents that may arise from the execution of the Agreement
- Keep the identification and location data of the contact persons at the regional and central level of both countries continuously updated
- Ensure the convening of the annual meeting, analysis and review of the Agreement, without prejudice to bilateral meetings of regional nature when deemed appropriate
- Exchange relevant information on the status of inspection systems and on outstanding inspection actions in the field of occupational safety and health, labour relations and undeclared work, monitoring of specific campaigns and implementation of new campaigns or initiatives of mutual interest
- Identify new areas of interest for both labour inspectorates
- Exchange information on new legislative measures that occur in both countries and that may affect the labour inspection action.

The Joint Follow-up Commission has been acting essentially through the annual meeting of the teams of the central Directorates of both Inspectorates (which traditionally includes not only the Sub-Directorates but also the Directors themselves).

The annual meeting of the commission has an agenda of specific topics agreed upon prior to the meeting and other topics that are recurrent such as: human trafficking, irregular work or letterbox companies⁽¹⁾, etc. The case of letterbox companies⁽¹⁾ is a recurrent issue. Despite the measures implemented by the two countries and the pressure that is being exerted within the inspection teams, this remains one of the most common problems.

Collaboration of social partners

At the beginning of the establishment of the agreement and between 2008 and 2010, there were social partners at the information level. The regional social partners participated in an “ad hoc meeting”, before or after the formal meeting of the Administrations.

(1) Lettebox companies can be defined as businesses that establish their domicile in one Member State, while conducting their activities in other Member States, usually with the aim of evading legal and social obligations.

- Se reúne anualmente
- La preside, de forma alternativa, cada año un país.
- La comisión tiene antenas en las regiones limítrofes: Galicia, Castilla y León y Andalucía
- Se establecen metodologías y herramientas para agilizar los intercambios de información.

Funciones de la comisión:

- Resolver las incidencias que pueda plantear la ejecución de este Acuerdo.
- Mantener permanentemente actualizado la identificación y datos de localización de las personas de contacto a nivel regional y central de ambos países.
- Velar por la convocatoria de la reunión anual, de análisis y revisión del Acuerdo, sin perjuicio de las reuniones bilaterales de carácter regional que pudieran estimarse convenientes.
- Intercambiar información relevante sobre la situación de los sistemas de inspección y sobre actuaciones inspectoras destacadas en el ámbito de seguridad y salud en el trabajo, relaciones laborales y trabajo no declarado, seguimiento de campañas puntuales y puesta en marcha de nuevas campañas o iniciativas de interés mutuo.
- Identificar nuevas áreas de interés para ambas inspecciones de trabajo.
- Intercambios de información sobre nuevas medidas legislativas que se produzcan en ambos países y que puedan incidir en la acción de la inspección de trabajo.

La Comisión Mixta de Seguimiento viene actuando fundamentalmente a través de la reunión anual de los equipos de las Direcciones centrales de ambas Inspecciones (que tradicionalmente incluye no sólo las Subdirecciones sino también los propios Directores).

La reunión anual de la comisión tiene una agenda de temas específicos acordados antes de la reunión y otros temas que son recurrentes como: la trata de personas, trabajo irregular, las empresas buzón, etc. El caso de las empresas buzón es un tema recurrente. A pesar de las medidas aplicadas por los dos países y de la presión que se ejerce en los equipos de inspección, sigue siendo uno de los problemas más problemas más comunes.

Colaboración de los agentes sociales.

Al inicio del establecimiento del acuerdo y de forma precisa entre 2008 y 2010, se contaba con los agentes sociales a nivel de información. Los agentes sociales regionales participaban en una “reunión ad hoc”, previa o posterior a la reunión formal de las Administraciones.

At the present time and since 2010 the social partners have not been summoned again. Those responsible for this agreement understand that the social partners already have their participation bodies in the state inspection council. This is a consultative body that has social partners among its members.

EU level and national level legal aspects smoothing or hampering the agreement

The introduction of the Directive EC 2014/67/EU and the reform of the Posting of Workers Directive implemented in 2018 - Directive (EU) 2018/957 - go in the direction of harmonizing cooperation between administrative authorities of the different EU countries.

Actions implemented to address hampers

N/A

Outcomes of the agreement

The agreement has enabled cooperation in all areas and mutual knowledge of the two countries.

On the political level, the holding of summits and periodical meetings has provided the commitment of coordination at the political and administrative level. On the legal level: the agreement has enabled the dissemination of the existing problem and, as a consequence, the establishment of criteria and action guidelines for joint actions. In the operational field such agreement has enabled coordinated interventions in both countries, speeding up the collection of information and improving the speed of open procedures. This process has also improved knowledge of regulatory and legislative changes in each country and so the continuity of cooperation over legislative and political change.

This cooperation agreement has made it possible to launch joint intervention campaigns on issues identified as of interest to the two countries, for example the campaign on “Use of agricultural machinery”. It has also made it possible to establish biannual action plans.

The cooperation agreement has been reinforced by the signature of a memorandum at the ministerial level, which strengthens the monitoring of bilateral cooperation carried out by the various

En el momento actual y desde 2010 no se ha vuelto a convocar a los agentes sociales, Los responsables de este acuerdo entienden que los agentes sociales ya tienen sus órganos de participación en el consejo estatal de la inspección. Órgano consultivo que cuenta con los agentes sociales entre sus miembros.

Aspectos jurídicos a nivel de la UE y nacional que facilitan o dificultan el acuerdo

La introducción de la Directiva CE 2014/67/UE y la reforma de la Directiva sobre el desplazamiento de Trabajadores llevada a cabo en 2018 -Directiva (UE) 2018/957- van en la dirección de armonizar la cooperación entre las autoridades administrativas de los distintos países de la UE.

Acciones implementadas para hacer frente a los obstáculos

Nada que destacar.

Resultados del Acuerdo

El acuerdo ha facilitado la cooperación en todos los ámbitos y el conocimiento mutuo de los dos países.

En el plano político, la celebración de cumbres y reuniones periódicas ha aportado el compromiso de coordinación a nivel político y administrativo. En el plano jurídico el acuerdo ha permitido la difusión de la problemática existente y, como consecuencia, el establecimiento de criterios y pautas de actuación para las acciones conjuntas. En el ámbito operativo dicho acuerdo ha permitido coordinar las intervenciones en ambos países, agilizando la recogida de información y mejorando la rapidez de los procedimientos abiertos. Este proceso también ha mejorado el conocimiento de los cambios normativos y legislativos en cada país y, por lo tanto, la continuidad de la cooperación por encima de los cambios legislativos y políticos. Este acuerdo de cooperación ha permitido poner en marcha campañas conjuntas de intervención en temas identificados como de interés para los dos países, como por ejemplo la campaña sobre el “Uso de la maquinaria agrícola”. También ha permitido establecer planes de acción bianuales.

El acuerdo de cooperación se ha reforzado con la firma de un memorando a nivel ministerial, que refuerza el seguimiento de la cooperación

bodies and units of the Ministry of Labour, including the labour inspectorate.

It should be noted, however, that there is no involvement of the social partners in the monitoring of the agreements. Since 2010 they have not been invited to participate in ad hoc meetings. There is no fluid information on these meetings, it is a bilateral issue of governments and there is, at present, no participation of the regional social partners in the follow-up of agreements.

Annex - Examples of joint action plans

In 2016, the start-up of an Iberian Work Accident Prevention Campaign was agreed. During the year 2016, the informative phase of the campaign was developed, having carried out both analysis and study of occupational accidents in both countries, as well as dissemination actions.

2017-2018 Action Plan

Issues related to the Public Employment Service, the National Institute of Occupational Health and Hygiene, Social Security or Occupational Health have been addressed.

2019-2020 Action Plan:

Issues related to the recruitment and training of new labour inspectors have been addressed. The initiatives implemented by the labour inspection training centres have been shared and their training systems have been revised.

The focus has also been placed on job insecurity. In this sense, the Portuguese authorities have paid attention to the measures put in place by the Spanish administration to reduce precariousness, for example the Spanish inspection plan “For decent work”. They focused their implementation and the results obtained by these measures. Equally interesting have been the studies and analysis of new forms of work: platform workers; bogus self-employed, etc.

bilateral llevada a cabo por los distintos organismos y unidades del Ministerio de Trabajo, incluida la de la Inspección de Trabajo.

No obstante, cabe señalar que los interlocutores sociales no participan en el seguimiento de los acuerdos. Desde 2010 no se les invita a participar en reuniones adhoc. No hay información fluida sobre estas reuniones, es una cuestión bilateral de gobiernos y no hay, de momento, participación de los interlocutores sociales regionales en el seguimiento de los acuerdos.

Anexo Algunos ejemplo de los planes de acción conjuntos

En el año 2016 se acordó la puesta en marcha de una Campaña Ibérica de Prevención de Accidentes de Trabajo, a llevar cabo durante los años 2016 y 2017, en la que participan la Inspección de Trabajo y Seguridad Social (ITSS), el Instituto Nacional de Seguridad e Higiene en el Trabajo (INSHT) y la Autoridade para as Condições do Trabalho (ACT) de Portugal. Durante el año 2016 se desarrolló la fase divulgativa de la campaña, habiéndose realizado tanto acciones de análisis y estudio de la siniestralidad laboral en ambos países, como acciones de divulgación y de difusión.

Plan de acción 2017-2018

Se ha abordado temas relacionados con el Servicio Público de empleo el Instituto Nacional de la salud e higiene en el trabajo, la seguridad social o salud laboral.

Plan de acción 2019-2020:

Se han abordado temas relacionados con el reclutamiento y formación de nuevos inspectores de trabajo. Se han compartido las iniciativas puestas en marcha por las escuelas de formación de la inspección de trabajo y se han revisado sus sistemas de formación.

También se ha puesto el foco en la precariedad laboral. En este sentido las autoridades Portuguesas han prestado atención a las medidas puestas en marcha por la administración española para reducir la precariedad, por ejemplo el plan de la inspección española “Por un trabajo digno”. Se centraron su puesta en marcha y los resultados obtenidos por estas medidas. Igualmente han sido de interés el estudios y análisis de las nuevas formas de trabajo: trabajadores de plataformas; falsos autónomos etc.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

Acerda de

Los objetivos del proyecto ISA son promover y reforzar la cooperación transnacional entre las autoridades y las partes interesadas en el desplazamiento de trabajadores en el sector de la construcción, promoviendo el establecimiento de acuerdos de intercambio de información destinados a supervisar y facilitar el desplazamiento de trabajadores.

El proyecto se basa en las prácticas existentes entre los fondos sectoriales de Italia, Alemania, Austria y Francia, donde los agentes sectoriales, con el apoyo de los gobiernos, negociaron y concluyeron con éxito acuerdos que simplifican los procedimientos necesarios para desplazar a los trabajadores al extranjero, al tiempo que garantizan que los empresarios que desplazan a los trabajadores al extranjero cumplen con las obligaciones de pago de salarios debidos (como la paga de vacaciones), y permiten comprobar fácilmente la información pertinente en el país de envío si surge la necesidad.

www.isa-project.eu

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Guidelines

Transnational bilateral agreements between the French UCF and sectoral funds active in other EU countries

AUTHOR: FRÉDÉRIC TURLAN (IR SHARE)
March 2021

Risks or concerns addressed by the agreement

Since the early 2000s, the number of foreign companies winning public or private construction contracts in France has been on the rise. Five regions accounted for 70% of posted workers in France: Grand-Est (104,000 posted workers in 2018) which has borders with Germany, Ile-de-France (92,000), Auvergne-Rhône Alpes (74,000) which has borders with Italy, Haut-de-France (65,000) which has borders with Belgium and Provence-Alpes-Côte-d'Azur (77,000) which has borders with Italy also.

Three sectors of activity make particular use of posted workers in France: industry, with 80,560 declarations and 165,005 posted workers declared, construction and public works, with 52,509 declarations and 123,167 posted workers, and agriculture with 23,981 declarations for 74,255 posted workers.

At the same time, French companies have been increasingly working in neighbouring countries, especially Germany, Belgium, Spain, Italy and the UK.

These trends have brought about an increase in worker mobility, especially through posting, with significant consequences for the management of remuneration and payrolls, which can be particularly burdensome especially for SMEs.

In fact, France and neighbouring countries like Germany and Italy have developed a system of intermediation of construction workers' wages by means of sectoral funds, thought to guarantee income stability despite the temporariness of contracts in the sector or sudden interruption of work due to adverse weather conditions.

Lignes directrices

Accords bilatéraux transnationaux entre l'UCF française et des fonds sectoriels actifs dans d'autres pays de l'UE

AUTEUR : FRÉDÉRIC TURLAN (IR SHARE)
Mars 2021

Risques ou préoccupations visés par l'accord

Depuis le début des années 2000, le nombre d'entreprises étrangères remportant des marchés, publics ou privés, de travaux de construction en France n'a fait qu'augmenter, avec cinq régions représentant 70% des travailleurs détachés en France, à savoir : Grand-Est (104 000 travailleurs détachés en 2018), possédant une frontière avec l'Allemagne, Ile-de-France (92 000), Auvergne-Rhône-Alpes (74 000), possédant une frontière avec l'Italie, Haut-de-France (65 000) possédant une frontière avec la Belgique, et Provence-Alpes-Côte d'Azur (77 000), possédant, elle aussi, une frontière avec l'Italie.

Trois secteurs d'activité comptent parmi les principaux utilisateurs de travailleurs détachés en France, à savoir l'industrie, avec 80 560 déclarations et 165 005 travailleurs détachés déclarés, le bâtiment et les travaux publics, avec 52 509 déclarations et 123 167 travailleurs détachés, et l'agriculture, avec 23 981 déclarations pour 74 255 travailleurs détachés.

Parallèlement, on relève un nombre croissant d'entreprises françaises exerçant leurs activités dans des pays voisins, en particulier l'Allemagne, la Belgique, l'Espagne, l'Italie et le Royaume-Uni.

Ces tendances ont engendré une augmentation de la mobilité des travailleurs, en particulier par le biais du détachement, avec des conséquences significatives au niveau de la gestion de la rémunération et de la masse salariale, parfois particulièrement onéreuses, surtout pour les PME.

De ce fait, la France et des pays voisins, comme l'Allemagne et l'Italie, ont développé un système d'intermédiation des salaires des travailleurs dans le bâtiment par le biais de fonds sectoriels censés garantir la stabilité des revenus en dépit du caractère temporaire des

Despite some differences in their territorial organisation, ownership model and benefits, these sectoral funds handle about 30% of workers' gross wages by means of 'contributions' paid by the employer to the fund, which, in turn, entitle workers to a set of benefits (e.g. holiday pay, bad weather pay, seniority pay, access to vocational training...).

This means, whenever a worker is sent abroad, the employer shall notify the competent fund in the sending and host country in order to suspend payment in the previous and contribute to the latter.

In turn, workers would gain entitlement to benefits towards foreign sectoral funds, that they can claim back abroad, realistically once the posting ends.

Companies in the construction sector, which are established outside the French territory, must join a French holiday pay fund (Congés intempéries BTP CIBTP), established at local level, when they come to France to work, in accordance with the Labour Code. These funds are monitored and coordinated at national level by the Union des caisses de France (UCF). UCF is managed only by the representative employers' organisation of the construction sector. One exception to this principle is the conclusion of bilateral agreements signed with certain EU Member States. As for example: after an extensive study, the existence of an equivalent leave entitlement scheme was recognised between France and Germany. It was in this context that an exemption agreement was concluded on 26 November 1997 between the CIPTB-UCF and the national institution SOKA-BAU.

This agreement is implemented through information sharing. In fact, the competent paid holiday fund verifies that, on the date of posting, the company is regularly affiliated and that it is up to date with contributions due in respect of the overall declared workers. Then, the fund draws up a certificate indicating that the company is up to date at the time of posting. The documents are transmitted by the fund of the sending State to the competent fund of the State of employment through the UCF.

Objectives

The main feature of this agreement is to make a simplified procedure available to companies covered by the system of paid leaves in the construction sector, while ensuring the compliance with national regulation regarding the payment of contributions. The agreements pursue the following objectives:

contrats dans le secteur, ou d'interruptions soudaines des travaux en raison de conditions atmosphériques défavorables.

En dépit de certaines différences au niveau de leur organisation territoriale, des régimes de propriété, et des prestations, ces fonds sectoriels assurent la gestion d'environ 30% des salaires bruts des travailleurs par le biais de « cotisations » versées au fonds par l'employeur, qui, en rétrocession, donnent aux travailleurs droit à une série de prestations (p.ex. congés payés, indemnités de conditions atmosphériques défavorables, primes d'ancienneté, accès à une formation professionnelle etc.).

Ceci signifie que lorsqu'un travailleur est détaché à l'étranger, l'employeur doit le communiquer aux fonds compétents dans le pays d'envoi et le pays d'accueil, afin de suspendre les versements dans le premier et de cotiser au deuxième.

À leur tour, les travailleurs ont alors droit à des prestations sur des fonds sectoriels étrangers, qu'ils peuvent revendiquer à l'étranger, vraisemblablement à la fin de leur détachement.

Les entreprises du secteur du bâtiment et des travaux publics (BTP), qui sont établies hors du territoire français, doivent adhérer à une caisse de congés payés (congés intempéries BTP CIBTP), établi à l'échelle locale, lorsqu'elles viennent travailler en France, conformément au Code du travail. Ces fonds sont contrôlés et coordonnés à l'échelle nationale par l'Union des caisses de France (UCF). L'UCF n'est gérée que par l'organisation patronale représentative du secteur du BTP.

Une exception à ce principe est la conclusion d'accords bilatéraux signés avec certains États membres de l'UE. À titre d'exemple, à l'issue d'une étude approfondie, l'existence d'un régime équivalent au droit au congé a été reconnue entre la France et l'Allemagne. C'est dans ce contexte qu'un accord d'exonération a été conclu le 26 novembre 1997 entre la CIPTB-UCF et l'institution nationale SOKA-BAU.

Cet accord est mis en application par le biais du partage de l'information. Concrètement, la caisse de congés payés compétente vérifie qu'à la date du détachement, l'entreprise est en règle avec son affiliation et avec le versement des cotisations redevables relativement à l'ensemble des travailleurs déclarés. Ainsi, le fonds établit un certificat indiquant que l'entreprise est à jour à la date du détachement. Les documents sont transmis par le fonds de l'État d'envoi au fonds compétent de l'État de l'emploi par le biais de l'UCF.

Les objectifs

La principale caractéristique de cet accord est de mettre à la disposition des entreprises couvertes par le système de congés payés

- a) to prevent posting of workers to work as a driver of social dumping;
- b) to protect construction workers ensuring continuity of enrolment in their sectoral funds, access to related benefits and an overall pay comparable with remuneration applicable in the host country;
- c) to make it easier for construction companies to provide their services abroad;
- d) to share information between social partners and sectoral funds in the involved countries on the terms and conditions of employment entailed in the different countries, especially concerning the structure of remuneration and the role of sectoral funds;
- e) to tackle undeclared work and to supervise the correct application of collective bargaining provisions.

‘Business case’ for adopting the agreement from the standpoint of stakeholders

Workers:	In the absence of the agreements, posted workers would have their contributions fragmented across different funds, risking losing some wage elements in the host country or losing continuity necessary to accrue entitlements in the sending country.
Companies:	The agreements prevent risks of double payment while reducing the administrative burden for employers, who interact only with their fund in the sending country and in their own language. A standard form to be filled and sent to the national institution which will send the relevant information to the institution of the hosting country.
Unions:	Provided the overall labour costs between the involved countries is similar, unions benefit from a tool which incentivizes compliance with collective agreements by construction companies.
Employers’ organisations:	Employers’ organisations benefit from a tool which simplifies administrative requirements in case of posting for their companies, ensures the possibility for companies to rectify possible mistakes, and ensures a level playing field for businesses at international level. Once again, the similarity in the remuneration levels in the covered countries is a key precondition for simplification to go hand in hand with fair competition.

dans le secteur du BTP une procédure simplifiée, tout en assurant la conformité avec la réglementation nationale en ce qui concerne le versement de cotisations. Les objectifs des accords sont les suivants :

- a) prévention du détachement des travailleurs en tant que moteur de dumping social ;
- b) protection des travailleurs du secteur du bâtiment, en assurant une continuité dans l'adhésion à leurs fonds sectoriels, l'accès à des prestations correspondantes, et un traitement global comparable à la rémunération applicable dans le pays d'accueil ;
- c) simplification, pour les entreprises du secteur du bâtiment, des modalités de prestation de leurs services à l'étranger ;
- d) partage, entre les partenaires sociaux et les fonds sectoriels dans les pays concernés, d'informations sur les modalités de l'emploi engendrées dans les différents pays, notamment en ce qui concerne la structure de la rémunération et le rôle des fonds sectoriels ;
- e) lutte contre le travail non déclaré, et supervision de la bonne application des dispositions des conventions collectives.

« Business case » pour l'adoption de l'accord du point de vue des parties prenantes

Travailleurs :	Sans les accords, les cotisations des travailleurs détachés seraient fragmentées entre différents fonds, et les travailleurs risqueraient de perdre certains éléments de leur salaire dans le pays d'accueil ou la continuité nécessaire pour le cumul de certains droits dans le pays d'envoi.
Entreprises :	Les accords assurent la prévention de risques de double paiement, tout en réduisant le fardeau administratif pour les employeurs, qui n'interagissent qu'avec leur fonds dans le pays d'envoi et dans leur propre langue. Un formulaire standard, rempli et envoyé à l'institution nationale, transmet les informations pertinentes à l'institution du pays d'accueil.
Syndicats :	À condition que les coûts de main-d'œuvre globaux soient similaires entre les pays concernés, les syndicats bénéficient d'un outil incitant à la conformité aux conventions collectives par les entreprises de construction.
Organisations patronales :	Les organisations patronales bénéficient d'un outil simplifiant les contraintes administratives en cas de détachement pour leurs entreprises, tout en donnant aux entreprises le moyen de rectifier d'éventuelles erreurs, et en assurant l'égalité des chances pour les entreprises à l'échelle internationale. Ici aussi, la similitude entre les niveaux de rémunération dans les pays couverts est une condition préalable essentielle afin que la simplification aille de pair avec une concurrence loyale.

Sectoral Funds	The funds benefit from an easy tool to guarantee continued affiliation and payment by companies, while offering a service appreciated by their affiliates ⁽¹⁾ .
Public Institutions:	Public institutions (especially social security institutions) benefit from a higher certainty on the regularity of undertakings, especially whenever parallel agreements are in place to share information with sectoral funds. In this respect, it shall be noted, compared to the A1 form, on the top of affiliation in the sending country, the funds certificate also regularity with payments of contributions before and during the posting period, a condition which is not required, instead, under procedures for certifying the correct affiliation of posted workers to the social security institution of the sending country pursuant to Article 12 of the Regulation EC 883/2004.

Main features

The agreement enables the sending company to contribute to the sectoral fund of the sending country rather than to the one of the host countries for posted workers. In order to do so, the company must prepare a declaration, available on both national institution website in the own languages, including: registration number or identifying code, place of posting, kind of activity, name of the client, starting and ending date of posting, and workers to be posted.

In order for the exemption to be granted, the company shall be in compliance with contribution duties towards the sectoral fund in the sending country and remain compliant during the posting period.

In particular, taking the example of the UCF-ULAK⁽²⁾ agreement, the text is structured as follows:

- A preamble recalling the objective to set out procedures concerning the exemption from contribution charges towards the sectoral fund in the host country in case of posting.
- A first part about the legislation applicable in Germany and in France with detailed explanation of the legislation at the time where the agreement was signed. Since its conclusion, the agreement has never been updated, but both institutions

(1) However, SOKA-BAU does not take care of the request for the issue of the French BTP identity card, which must be directly requested to UCF by the German company posting employees to France.

(2) ULAK is the fund for paid leave and vocational training established under the umbrella of SOKA BAU (the other being the ZVK pension fund).

Fonds sectoriels : Les fonds bénéficient d'un outil d'utilisation facile pour garantir le maintien de l'adhésion et du paiement par les entreprises, tout en offrant un service apprécié de leurs affiliés⁽¹⁾.

Institutions publiques : Les institutions publiques (notamment les institutions de sécurité sociale) bénéficient d'un degré de sécurité plus élevé concernant la régularité des entreprises, notamment lorsque des accords parallèles ont été mis en place pour partager des informations avec des fonds sectoriels. Il convient de noter, à ce propos, que par rapport au formulaire A1, en plus de l'affiliation dans le pays de départ, les fonds certifient également la régularité du versement des cotisations avant la période de détachement, et au cours de celle-ci, une condition qui, par contre, n'est pas requise dans le cadre des modalités d'attestation de bonne affiliation des travailleurs détachés à l'institution de sécurité sociale du pays d'envoi, conformément à l'article 12 du règlement CE 883/2004.

Principaux volets de l'accord

L'accord permet à l'entreprise d'envoi de cotiser au fonds sectoriel du pays d'envoi plutôt qu'à celui du pays d'accueil, pour les travailleurs détachés. Pour ceci, l'entreprise doit préparer une déclaration, fournie sur le site Web des deux institutions, et dans leur propre langue, comprenant : le numéro d'inscription ou le code d'identification de l'entreprise, le lieu du détachement, le type d'activité, le nom du client, la date du début et de la fin du détachement, et les travailleurs qu'elle propose de détacher.

Afin d'obtenir cette exonération, l'entreprise doit être en règle avec ses obligations de cotisation au fonds sectoriel dans le pays d'envoi, et maintenir cette conformité au cours de la période de détachement. En particulier, si l'on prend l'exemple de l'accord UCF-ULAK⁽²⁾, le texte est structuré de la façon suivante :

- Un préambule rappelant l'objectif de l'établissement des modalités concernant l'exonération du versement de cotisations au fonds sectoriel dans le pays d'accueil dans l'éventualité d'un détachement.
- Une première partie sur la législation applicable en Allemagne et en France, comprenant une explication détaillée sur la législation en vigueur à la date de la signature de l'accord. Depuis sa conclusion, l'accord n'a jamais été actualisé, mais les deux institutions vérifient

(1) Toutefois SOKA-BAU ne se charge pas de la demande d'émission de la carte d'identité BTP française, qui doit être demandée directement à l'UCF par l'entreprise allemande détachant des travailleurs en France.

(2) ULAK est la caisse de congés payés et la formation professionnelle, établi sous l'égide de SOKA BAU (l'autre étant la caisse de retraite ZVK).

check on a regularly basis any changes that occur in their respective country and inform its partner. Both institutions are immediately aware about changes in data and have at least one meeting per year.

- A second part sets the objective of the agreement that are mentioned above.
- A third part focuses on the rules of procedures:
 - It gives a definition of the sending state and hosting state;
 - It agrees that UCF will be the only French institution involved in the agreement on the behalf of the several regional affiliates of UCF in France (13 regional funds). UCF is responsible to circulate information within its network of regional funds and to centralise applications sent by these regional funds.
 - It states that when a company is registered by one of the two institutions and pay its contribution to it (CIBTP-UCF or ULAK), then it is not obliged to be affiliated to the national institution of the host country and will not have to pay any contribution to it.
 - It organises the exchange of data and certificate between the two national institutions to ensure that the company posting workers paid the contribution to its national institution.
 - It describes the process t/o be followed in the rare case where the company send more posted workers than the number mentioned in the declaration sent to its national institution.
 - It includes a provision to clarify the situation of companies that are affiliated to the national institution but, according to their activities, would be not covered by the national institution of the host country. For instance, the Customs Authority in Germany, in charge of the control of posting workers, may find a French company on a site which is not affiliated to CIBTP-UCF due to its activities, but should be affiliated in Germany to ULAK if it were a German company.
 - It contains provisions on the situation of white collars. The German holiday fund scheme only covers blue collar workers. If a German company sends a white collar worker in France, the agreement stresses that the company has to observe French legislation and the collective agreements that apply to white collar workers.

A final section mentions that the institutions have to cover their own costs. In addition, it is stressed that both French and German versions are binding and that the agreement is concluded in an unlimited period.

à des échéances régulières les changements survenant dans leur pays respectif, et en informent leur partenaire. Les deux institutions sont immédiatement au courant des variations des données, et tiennent au moins une réunion par an.

- Une deuxième partie fixe les objectifs susmentionnés de l'accord.
- Une troisième partie est axée sur les règles de procédure :
 - Elle contient une définition de l'État d'envoi et de l'État d'accueil ;
 - Elle reconnaît que l'UCF sera la seule institution française participant à l'accord pour le compte des différents affiliés régionaux de l'UCF en France (13 fonds régionaux). L'UCF est chargée de la circulation de l'information au sein de son réseau de fonds régionaux, et de la centralisation des demandes transmises par ces fonds régionaux.
 - Elle stipule que lorsqu'une entreprise est enregistrée par une des deux institutions, et lui verse ses cotisations (CIBTP-UCF ou ULAK), elle n'est pas obligée d'être affiliée à l'institution nationale du pays d'accueil, et n'est pas tenue de lui verser des cotisations.
 - Elle organise l'échange de données et les certificats entre les deux institutions nationales afin d'assurer que l'entreprise détachant des travailleurs a versé sa cotisation à son institution nationale.
 - Elle décrit le processus à adopter dans les rares cas où l'entreprise détache plus de travailleurs que l'effectif mentionné dans la déclaration transmise à son institution nationale.
 - Elle contient une disposition pour clarifier la situation des entreprises affiliées à l'institution nationale, mais, en fonction de leurs activités, ne seraient pas couvertes par l'institution nationale du pays d'accueil. Par exemple, le service des douanes en Allemagne, qui est chargé du contrôle du détachement de travailleurs, pourra trouver, sur un chantier, une entreprise française qui n'est pas affiliée à la CIBTP-UCF en raison de ses activités, mais qui serait affiliée à l'ULAK, en Allemagne s'il s'agissait d'une entreprise allemande.
 - Elle contient des dispositions sur la situation des employés de bureau. La caisse de congés payés allemande ne couvre que les travailleurs manuels. Si une entreprise allemande détache un employé de bureau en France, l'accord souligne que l'entreprise est tenue d'observer la législation française et les conventions collectives applicables aux employés de bureau.

Une dernière section précise que les institutions sont tenues de prendre à leur charge leurs propres coûts. En outre, il est également stipulé que les versions française et allemande sont contraignantes, et que l'accord a été conclu pour une période illimitée.

Table 1:
Contribution rates and parameters on 1.01.2021

Levies on gross wage – France	Share on gross wage	Levies on gross wage – Germany	Share on gross wage
Holiday pay	19.80%	Holiday pay	15.40% (since January 2019)
Vocational training allowance		Vocational training allowance	All areas: 2,40% Except Berlin: 1,65%
Complementary pension		Complementary pension	Western Germany: 3,0% Eastern Germany: 1,1% West Berlin: 3,0% East Berlin: 1,1%
Bad weather pay	0.74(structural work) or 0.15% (second work)	Bad weather pay	2%
Health and Safety (OPPBTB)	0.11%		
Social benefit (APAS-BTP)	0.40%	Social Expenses	Only for Berlin: 5,7%
Temporary work	0.11%		
Professional contribution depending regional collective agreement	0.10% to 1.17%		
Total	20,67% to 22,33% depending on the nature of activities (structural work or second work) and the location of the employer's headquarters.	Total	Western Germany: 22,8% Eastern Germany: 20,9% West Berlin: 27,75% East Berlin: 25,85%

Table 1:
Taux de cotisation et paramètres au 01/01/2021

Prélèvements sur le salaire brut - France	Pourcentage du salaire brut	Prélèvements sur le salaire brut - Allemagne	Pourcentage du salaire brut
Congés payés	19,80%	Congés payés	15,40% (depuis janvier 2019)
Indemnité de formation professionnelle		Indemnité de formation professionnelle	Toutes régions : 2,40% Sauf Berlin : 1,65%
Retraite complémentaire		Retraite complémentaire	Allemagne de l'Ouest : 3,0% Allemagne de l'Est : 1,1% Berlin-Ouest : 3,0% Berlin-Est : 1,1%
Indemnité intempéries	0,74 (travaux de gros œuvre) ou 0,15% (travaux de second œuvre)	Indemnité Intempéries	2%
Santé et sécurité (OPPBTP)	0,11%		
Prestations sociales (APAS-BTP)	0,40%	Coûts sociaux	Pour Berlin seulement : 5,7%
Travail intérimaire	0,11%		
Cotisation professionnelle en fonction de la convention collective régionale	0,10% à 1,17%		
Total	20,67% à 22,33% en fonction de la nature des activités (travaux de gros œuvre ou de second œuvre) et du lieu du siège social de l'employeur.	Total	Allemagne de l'Ouest : 22,8% Allemagne de l'Est : 20,9% Berlin-Ouest : 27,75% Berlin-Est : 25,85%

Process of adoption and role of different involved stakeholders

Necessary requisites for the agreements to apply were: (i) the recognition of contributions to sectoral funds and of other levies as part of the minimum rates of pay posted workers have a right to; (ii) the recognition of the similar features of contributions and levies across the covered countries.

In France, foreign based companies in the building and public works sector must join a Congés Intempéries BTP (CIBTP) fund as soon as they post employees to France, in accordance with the provisions of Articles L.1262-4 and D.3141-14 of the Labour Code. The latest states that the scheme provided for in the Labour code section on the pay holiday fund *'also applies to undertakings not established in France'*.

The triggering event for the obligation to affiliate to the CIBTP funds, as well as the resulting obligations in terms of declaring the wages paid and paying the related contributions, is therefore the fact that the company posts employees to French territory.

This principle is accompanied by exceptions set out in Articles D. 3141-26 and D. 3141-27 of the Labour Code. It is more particularly on the basis of the latter article that the bilateral agreement in question was established. For instance, article D.3141-26 stresses that *'the companies mentioned in Article D. 3141-14, established in another Member State of the European Union or in one of the other States party to the Agreement on the European Economic Area, may be exempted from the obligations'* set out in the sub-section focusing on companies of the construction sector, *'if they can prove that their employees benefit from their paid leave rights for the period of secondment under conditions at least equivalent to those provided for by French legislation(3)'*.

In Germany, the legitimacy of the agreements is acknowledged through a sectoral-level collective agreement. Article 5 Nr. 3 Arbeitnehmer-Entsendegesetz states: "A collective agreement as referred to in section 3 may set out... the collection of contributions and granting of benefits in connection with holiday entitlements as set out in no. 2 by a joint facility of the parties to the collective agreement where it is guaranteed that the foreign employer is not simultaneously required to pay contributions towards that joint facility and towards a comparable facility in the state of the employer's establishment and the procedure applied by the joint

(3) UCF provides on its website a leaflet with the reference texts that are applicable to the holiday fund.

Processus d'adoption et rôle des différentes parties prenantes concernées

Les conditions nécessaires pour les accords étaient les suivantes : (i) reconnaissance des cotisations aux fonds sectoriels et d'autres prélèvements dans le cadre de la rémunération minimale à laquelle les travailleurs détachés ont droit ; (ii) la reconnaissance d'éléments similaires de cotisations et prélèvements dans les pays couverts.

En France, les entreprises du secteur du BTP domiciliées à l'étranger doivent adhérer à un fonds de Congés Intempéries BTP (CIBTP) dès qu'elles détachent des salariés en France, conformément aux dispositions des *articles L.1262-4 et D.3141-14* du Code du travail : ce dernier stipule que le régime prévu dans la section du Code du travail sur les congés payés s'applique « également aux entreprises non établies en France ».

L'événement déclencheur de l'obligation d'affiliation aux fonds CIBTP, ainsi que des obligations résultantes en ce qui concerne la déclaration de salaires versés et le versement des cotisations connexes, est par conséquent le fait que l'entreprise détache des salariés sur le territoire français.

Ce principe fait l'objet d'exceptions précisées dans les *articles D. 3141-26 et D. 3141-27* du Code du travail, et c'est plus particulièrement sur la base de ce dernier article que l'accord bilatéral en question a été établi. Par exemple, l'article D.3141-26 souligne que « les entreprises mentionnées à l'article D. 3141-14, établies dans un autre État membre de l'Union européenne ou dans l'un des autres États partie à l'accord sur l'espace économique européen, peuvent s'exonérer des obligations figurant à la présente sous-section si elles justifient que leurs salariés bénéficient de leurs droits à congés payés pour la période de détachement dans des conditions au moins équivalentes à celles prévues par la législation française ».

En Allemagne, la légitimité des accords est reconnue par le biais d'une convention collective au niveau sectoriel. Dans l'article 5, section n° 3, de l'*Arbeitnehmer-Entsendegesetz* (loi sur le détachement des travailleurs), il est stipulé que : « une convention collective visée à la Section 3 peut établir . . . le prélèvement de cotisations et l'octroi de prestations relativement à des droits à des congés précisés au n° 2 par un mécanisme conjoint des parties de la convention collective, où il est garanti que l'employeur étranger n'est pas tenu de verser de cotisations dans ce mécanisme et dans un mécanisme comparable dans l'État de l'établissement de l'employeur, et la procédure appliquée par le mécanisme conjoint des parties de la convention collective prévoit de porter à son crédit les prestations que l'employeur étranger a déjà versé aux travailleurs dans le cadre de l'exécution de leurs droits aux

facility of the parties to the collective agreement involves crediting those benefits which the foreign employer has already extended to workers in the fulfilment of their holiday entitlement as provided by statute, collective agreement or individual agreement”.

Information on the duties of employers is available on the SOKA-BAU website in 14 languages with explanations on “leave fund scheme for companies posting commercial workers”. Information is provided to employers and to employees. A leaflet is also available in all 14 languages with various other information.

EU level and national level legal aspects smoothing or hampering the agreement

The legal basis for the agreements are the national acts transposing the Posting of Workers Directive, in particular for what concerns the right of posted workers to receive remuneration and minimum annual paid leave in line with law or collective bargaining provisions in force in the host country

As explained in the ‘process’ section, in France the legitimacy of the agreements is acknowledged also by the Labour Code and sectoral collective agreements concluded by the representative social partners.

In Germany, the legitimacy of the agreements is acknowledged by the applicable collective agreement extended to all employers and employees in the construction sector.

Exemptions from the affiliation to the sectoral fund of the host country are considered as legitimate whenever workers enjoy a comparable level of protection in the sending country. Agreements between sectoral funds appear as a particularly appropriate tool to identify these situations as they guarantee reciprocal understanding of the similarity of protection across borders, reducing risks of conflict of laws. While granting a continuity in contributions to funds of the sending country, the agreements maintain all wage elements considered as mandatory at national level.

Actions implemented to address hampers

The signatory parties maintain constant relationships to check companies and declarations. This cooperative dialogue enables to solve cases of irregularities. They have at least one meeting per year and exchange data and declarations. However, the process

congés payés conformément à la loi, aux conventions collectives ou aux accords individuels ».

Le site Web de SOKA-BAU comprend des informations, en 14 langues, sur les obligations des employeurs, avec des explications sur *régime des congés payés pour les entreprises détachant des salariés manuels* ; ces informations sont fournies aux *employeurs* et aux *salariés*. Une *tablette* contenant d'autres renseignements divers est également proposée dans les 14 langues.

Aspects juridiques au niveau de l'UE et à l'échelon national facilitant ou entravant l'accord

La base juridique pour les accords sont les lois nationales transposant la directive sur le détachement de travailleurs, notamment en ce qui concerne le droit, pour les travailleurs détachés, de percevoir une rémunération, et de recevoir des congés payés annuels minimum, conformes aux dispositions de la loi ou celles des conventions collectives en vigueur dans le pays d'accueil.

Conformément à l'explication contenue dans la section sur le « Processus », en France la légitimité des accords est reconnue également par le Code du travail ainsi que par des conventions collectives sectorielles conclues par les partenaires sociaux représentatifs.

En Allemagne, la légitimité des accords est reconnue par la convention collective applicable s'adressant à tous les employeurs et salariés du secteur du BTP.

Les exemptions à l'affiliation aux fonds sectoriels du pays d'accueil sont jugées légitimes lorsque les travailleurs bénéficient d'un niveau de protection comparable dans le pays d'envoi. Les accords entre fonds sectoriels semblent être un outil particulièrement approprié pour l'identification de ces situations, car ils garantissent une connaissance réciproque de la similitude de la protection de part et d'autre des frontières, en réduisant ainsi les risques de conflits de lois. Tout en accordant une continuité des cotisations aux fonds dans le pays d'envoi, les accords maintiennent tous les éléments salariaux comme étant impératifs à l'échelle nationale.

Actions mises en œuvre pour surmonter les obstacles

Les parties signataires maintiennent des relations constantes pour le contrôle des entreprises et des déclarations. Ce dialogue coopératif permet de résoudre des affaires d'irrégularités. Elles se réunissent au

is not full digitalised, which can lead to some delay. SOKA-BAU also noticed that the funds do not share data on certain employers or employees with stakeholders as trade unions or employers' organisations. These data are seen as sensible personal data and therefore fall under the related "special data protection" regime. Nevertheless, SOKA-BAU has access to notifications that sending undertakings are obliged to submit to the Customs Authority.

Outcomes of the agreement

In 2020 there were 42 employers sending 354 workers from France to Germany.

moins une fois par an, pour échanger des données et des déclarations. Toutefois, ce processus n'est pas entièrement numérisé, ce qui donne lieu parfois à certains retards. En outre, SOKA-BAU a remarqué que les fonds ne partagent pas des données sur certains employeurs ou salariés avec des parties prenantes comme les syndicats ou les organisations patronales. Ces données sont considérées comme étant des données sensibles à caractère personnel, et relèvent par conséquent des règles spéciales de protection des données. SOKA-BAU a toutefois accès à des notifications que les entreprises d'envoi sont tenues de soumettre au service des douanes.

Résultats de l'accord

En 2020, 42 employeurs détachèrent 354 travailleurs de France en Allemagne.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

La mission

Les objectifs du projet ISA sont la promotion et le renforcement d'une coopération transnationale entre les autorités et les parties prenantes concernées par le détachement de travailleurs dans le secteur du bâtiment et des travaux publics (BTP), en encourageant la conclusion d'accords d'échange d'informations axés sur le contrôle et la simplification du détachement de travailleurs.

Le projet sera fondé sur des pratiques adoptées entre des fonds sectoriels en Italie, en Allemagne, en Autriche et en France, ces fonds sectoriels ayant, avec l'appui des gouvernements, négocié et conclu avec succès des accords simplifiant les procédures nécessaires pour le détachement de travailleurs à l'étranger, tout en assurant que les employeurs détachant des travailleurs à l'étranger se conforment à leurs obligations pour le versement d'éléments de salaire (par exemple les indemnités de congé), et en permettant, si nécessaire, le contrôle d'informations pertinentes dans le pays de départ.

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Guidelines

Agreement between the Social Insurance Institution (ZUS) (Poland) and SOKA-BAU (Germany)

AUTHOR: JAKUB KUS (ZZ BUDOWLANI)
February 2021

Risks or concerns addressed by the agreement

SOKA-BAU is a sectoral fund, established as a paritarian institution, tasked with protecting all employees of the construction sector in Germany - including employees of Polish companies working in Germany. Every company operating in the construction industry in Germany is required to register at SOKA-BAU. Companies must report new employees on an ongoing basis and pay monthly contributions to secure employee leave. The amount of money paid by the employer is refunded to the employee as paid leaves. The amount of these contributions is deducted from the gross monthly salary. If the employee has not used the leave and does not want to carry it over to the next year, SOKA-BAU pays an equivalent for the unused leave. This is the most common solution, because Polish posted workers do not usually spend their holidays in Germany.

As there is no institution structurally similar to SOKA-BAU in Poland and the employees receive paid holidays on the basis of the Labour Code, in the process of posting employees, there are often doubts as to the correctness of the financial settlements of employers providing services in Germany. SOKA-BAU is a private institution, and the Social Insurance Institute (ZUS) is a public institution responsible for social security. Before the conclusion of the agreement, it was therefore necessary to resolve a number of legal problems.

The concluded agreement is to eliminate the doubts and problems of both organisations, described below.

Wytyczne

Umowa między Zakładem Ubezpieczeń Społecznych ZUS (Polska) a SOKA-BAU (Niemcy)

AUTOR: JAKUB KUS (ZZ BUDOWLANI)
Luty 2021

Ryzyka lub obawy objęte umową

SOKA-BAU to fundusz branżowy, utworzony jako instytucja parytarna, którego zadaniem jest ochrona wszystkich pracowników sektora budowlanego w Niemczech - w tym pracowników polskich firm pracujących w Niemczech. Każda firma działająca w branży budowlanej w Niemczech ma obowiązek zarejestrować się w SOKA-BAU. Firmy muszą na bieżąco zgłaszać nowych pracowników i opłacać miesięczne składki, aby zapewnić sobie urlop pracowniczy. Kwota wpłacona przez pracodawcę jest zwracana pracownikowi jako płatne urlopy. Kwota tych składek jest potrącana z miesięcznego wynagrodzenia brutto. Jeżeli pracownik nie wykorzystał urlopu i nie chce go przenieść na kolejny rok, SOKA-BAU wypłaca ekwiwalent za niewykorzystany urlop. To najczęstsze rozwiązanie, ponieważ polscy pracownicy delegowani przeważnie nie spędzają wakacji w Niemczech.

Ponieważ w Polsce nie ma instytucji podobnej strukturalnie do SOKA-BAU, a pracownicy otrzymują płatne urlopy na podstawie Kodeksu pracy, w procesie delegowania pracowników często pojawiają się wątpliwości co do prawidłowości rozliczeń finansowych pracodawców świadczących usługi w Niemczech. SOKA-BAU jest instytucją prywatną, a Zakład Ubezpieczeń Społecznych (ZUS) jest instytucją publiczną odpowiedzialną za zabezpieczenie społeczne. Przed zawarciem umowy konieczne było więc rozwiązanie szeregu problemów prawnych.

Zawarta umowa ma na celu wyeliminowanie opisanych poniżej wątpliwości i problemów obu organizacji.

ZUS:

Has the employer included a leave allowance (or equivalent) through a Holiday Fund in another EU country in the contribution assessment for the employee posted to Germany?

SOKA-BAU:

Can funds for contributions for benefits and equivalents paid out by the holiday fund be lawfully transferred to Polish employers?

Can funds be transferred to ZUS, instead, a public institution normally accepting contributions directly paid by employers?

Objectives

The agreement supports the proper flow of information between a private (paritarian) holiday fund in Germany and a public insurance institution in Poland to make sure social security contributions are paid on sums paid by Polish sending undertaking to the fund and to simplify reimbursement for unused leave to the workers. Once the posting ends, workers can claim back the equivalent for the unused leave to SOKA BAU in several instalments or as a lump sum. In these cases, the agreement enables SOKA BAU to have the payment intermediated by ZUS rather than by the employer.

ZUS:

Czy pracodawca uwzględnił dodatek urlopowy (lub jego ekwiwalent) z funduszu urlopowego w innym kraju UE w wymiarze składek pracownika delegowanego do Niemiec?

SOKA-BAU:

Czy środki na składki na świadczenia i ekwiwalenty wypłacane przez fundusz urlopowy mogą być legalnie przekazywane polskiemu pracodawcom?

Czy można przekazać środki bezpośrednio do ZUS-u, jako do instytucji publicznej, która normalnie przyjmuje składki wpłacane bezpośrednio przez pracodawców?

Cele

Umowa wspiera prawidłowy przepływ informacji pomiędzy prywatną (parytarną) kasą urlopową w Niemczech a publiczną instytucją ubezpieczeniową w Polsce w celu zapewnienia opłacania składek na ubezpieczenie społeczne od kwot wpłacanych przez polski podmiot wysyłający do funduszu oraz ułatwienia zwrotu kosztów niewykorzystanego urlopu do pracowników. Po zakończeniu delegowania pracownicy mogą ubiegać się o zwrot ekwiwalentu za niewykorzystany urlop w SOKA BAU w kilku ratach lub w formie ryczałtu. W takich przypadkach umowa umożliwia SOKA BAU zlecenie płatności za pośrednictwem ZUS, a nie pracodawcy.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	The agreement concerns the exchange of information between a social security institution and a sectoral fund; employees and employers are not party to the agreement. However, the agreement allows the posted worker to be sure that the due benefits will be properly paid and documented in the social security system, possibly leading to better coverage by social security benefits as well. In the event of failure to use the leave entitlement, it allows the employee to pursue claims regarding the payment of the due amount.
Companies:	The agreement is very important for employers posting employees to construction sites in Germany. An employer registered with SOKA-BAU and paying a contribution to the holiday fund can be sure to meet the legal requirements of both countries and that both competent institutions are informed of this fact. From the employer's point of view, this limits the administrative procedures related to informing the Polish Social Insurance Institution.
Unions:	Trade unions in Germany and Poland, using access to public information, can receive data on the accuracy of the process of posting workers, compliance with the provisions of collective agreements, individual employment contracts and the labour code. Beyond having the right to obtain aggregated information, they can apply to the labour inspectorate for an inspection at the designated employer and receive a report on the inspection results. This allows both the identification of the scale of infringements of the law by employers and the assessment of the scale of the process of posting workers from Poland to Germany.
Employers' organisations:	Employers' organisations in the construction industry in Germany and Poland, using the access to public information of both institutions, receive additional data on the correctness of the process of posting workers as well as on the activity of Polish companies posting in Germany. This allows the scale of the process of posting workers from Poland to Germany to be assessed and compared with their own data on this subject. However, it should be emphasized that the largest employers' organisations in Poland are only interested in the posting process to a small extent. Only specialized associations of entities posting workers deal with this area.
Sectoral Funds	So far, sectoral sector funds in construction have not been established in Poland. However, the agreement facilitates the operation of the German SOKA-BAU fund.

„Uzasadnienie biznesowe” dotyczące zawarcia umowy z punktu widzenia interesariuszy

Pracownicy:	Umowa dotyczy wymiany informacji między instytucją zabezpieczenia społecznego a funduszem sektorowym; pracownicy i pracodawcy nie są stronami umowy. Umowa daje jednak pracownikowi delegowanemu pewność, że należne świadczenia zostaną należycie wypłacone i udokumentowane w systemie zabezpieczenia społecznego, co może prowadzić również do lepszego objęcia świadczeniami z zabezpieczenia społecznego. W przypadku niewykorzystania prawa do urlopu umożliwia dochodzenie roszczeń z tytułu zapłaty należnej kwoty.
Firmy:	Umowa jest bardzo ważna dla pracodawców delegujących pracowników na budowy w Niemczech. Pracodawca zarejestrowany w SOKA-BAU i wplacający składkę do kasy urlopowej może mieć pewność, że spełnia wymogi prawne obu krajów i że obie właściwe instytucje są o tym fakcie poinformowane. Z punktu widzenia pracodawcy ogranicza to procedury administracyjne związane z informowaniem ZUS.
Związki:	Związki zawodowe w Niemczech i Polsce, korzystając z dostępu do informacji publicznej, mogą uzyskać dane o prawidłowości procesu delegowania pracowników, przestrzegania postanowień układów zbiorowych, indywidualnych umów o pracę oraz kodeksu pracy. Oprócz prawa do uzyskania informacji zbiorczych, mogą wystąpić do inspekcji pracy o przeprowadzenie kontroli u wyznaczonego pracodawcy i otrzymać raport z wyników kontroli. Pozwala to zarówno na identyfikację skali naruszeń prawa przez pracodawców, jak i ocenę skali procesu delegowania pracowników z Polski do Niemiec.
Organizacje pracodawców:	Organizacje pracodawców z branży budowlanej w Niemczech i Polsce, korzystając z dostępu do informacji publicznych obu instytucji, otrzymują dodatkowe dane o poprawności procesu delegowania pracowników, a także o działalności polskich firm delegujących do Niemiec. Pozwala to ocenić skalę procesu delegowania pracowników z Polski do Niemiec i porównać je z własnymi danymi na ten temat. Należy jednak podkreślić, że największe organizacje pracodawców w Polsce są zainteresowane procesem delegowania tylko w niewielkim stopniu. Zajmują się tym wyspecjalizowane stowarzyszenia podmiotów delegujących pracowników.
Fundusze sektorowe:	Do tej pory w Polsce nie powstały sektorowe fundusze sektorowe w budownictwie. Umowa ułatwia jednak funkcjonowanie niemieckiego funduszu SOKA-BAU.

Institutional actors: The agreement has a significant impact on the nature of the information exchange system between institutions dealing with employee insurance in the construction industry and in the field of holiday pay. It is one of two agreements concluded by the Polish Social Insurance Institution with sectoral funds in the construction industry (the other being with BUAK in Austria). The agreement solves many administrative problems resulting from the differences in insurance services for posted construction workers in EU countries. Based on both agreements, the Polish Social Insurance Institution applied to the liaison bodies of other EU countries for similar cooperation and received responses from 12 Member States by the end of 2019. Currently, the most advanced are the arrangements with the French sectoral fund in order to determine issues concerning the payment of benefits and equivalents and the operation of holiday funds.

The agreement between ZUS and SOKA-BAU is important for the posting of construction workers from Poland because in 2019 46.34% (52,162) of all workers posted from Poland to work in the construction industry worked in Germany. In 2020 (until September), this number was 28,258, i.e. a 47.96% share.

Main features

The tasks assigned by the agreement to each party are summarised below.

SOKA-BAU:

- preparation of software enabling the collection and aggregation of data necessary for settlement by ZUS;
- monthly submission of the lists of payers and insured persons to ZUS;
- transfer of funds for contributions directly to the individual contributory account number of a given contribution payer (NRS).

ZUS:

- provision of the list of individual contributory account numbers (NRS) assigned to contribution payers posting employees to work in Germany;
- maintenance of the list of coordinators in field departments responsible for the implementation of the task;
- verification of whether employers have included in the settlement documents the equivalents and benefits paid by SOKA-BAU and due contributions (preparation of documents ex officio);
- verification of whether the payer has paid contributions on the part financed from the fund.

Institucje publiczne:

Porozumienie ma istotny wpływ na charakter systemu wymiany informacji pomiędzy instytucjami zajmującymi się ubezpieczeniami pracowniczymi w budownictwie oraz w zakresie wynagrodzenia urlopowego. Jest to jedna z dwóch umów zawartych przez ZUS z funduszami branżowymi w budownictwie (druga z BUAK w Austrii). Porozumienie rozwiązuje wiele problemów administracyjnych wynikających z różnic w usługach ubezpieczeniowych dla delegowanych pracowników budowlanych w krajach UE. Na podstawie obu umów ZUS wystąpił do instytucji łącznikowych innych krajów UE o podobną współpracę i do końca 2019 r. Otrzymał odpowiedzi od 12 państw członkowskich. Obecnie najbardziej zaawansowane są ustalenia z francuskim funduszem sektorowym w celu rozstrzygnięcia kwestii związanych z wypłatą świadczeń i ekwiwalentów oraz funkcjonowaniem kas urlopowych.

Główne cechy umowy

Poniżej podsumowano zadania przypisane w umowie każdej ze stron.

SOKA-BAU:

- przygotowanie oprogramowania umożliwiającego zbieranie i agregację danych niezbędnych do rozliczenia przez ZUS;
- comiesięczne przesyłanie list płatników i ubezpieczonych do ZUS;
- przekazanie środków na składki bezpośrednio na indywidualny numer rachunku składowego danego płatnika składek (NRS).

ZUS:

- udostępnienie wykazu indywidualnych numerów kont składowych (NRS) nadawanych płatnikom składek delegującym pracowników do pracy w Niemczech;
- prowadzenie listy koordynatorów w oddziałach terenowych odpowiedzialnych za realizację zadania;
- weryfikacja, czy pracodawcy uwzględnili w dokumentach rozliczeniowych ekwiwalenty i świadczenia wypłacane przez SOKA-BAU oraz należne składki (sporządzanie dokumentów z urzędu);
- weryfikacja, czy płatnik opłacał składki z części finansowanej z funduszu.

Process of adoption and role of different involved stakeholders

The process of concluding the agreement between ZUS and SOKA-BAU was preceded by long-lasting preparation and consultation, as listed below. The agreement was signed on 24 May 2018.

July 2014 – May 2018

1. Contact established between SOKA-BAU and ZUS via the German embassy in Poland.
2. Working meetings and working exchange of information concerning the legal situation in Germany and Poland. These included the conditions that should be met for ZUS to receive funds directly from the Holiday Fund, settle them on the accounts of contribution payers and record them on the insured persons' accounts.
3. Implementation of the e-contribution project (e-składka) by ZUS, under which solutions were implemented to allow payers to pay contributions with one payment to the individual contribution account number (NRS) assigned by ZUS.

EU level and national level legal aspects smoothing or hampering the agreement

There are no legal regulations in European law that could hinder the implementation of the agreement. The agreement is part of the construction of the European system of social security coordination, insofar as it enables ZUS to make sure contributions paid for leaves to SOKA-BAU are subject to social security contributions in Poland. In addition, SOKA BAU is explicitly entitled by collective agreement to share data with ZUS.

The identification of a common European tool for the exchange of data on social insurance, including the one covering the issues of insurance for posted workers, is still a significant problem. ZUS is very advanced in the work on digitising the process of collecting and analysing insurance data. It is to be expected that the process of data exchange between ZUS and SOKA-BAU will also be further digitised. One of the challenges is to make this data digitisation process compatible with the EU activities on building common tools.

Proces zawarcia umowy i rola różnych zaangażowanych stron

Proces zawarcia umowy pomiędzy ZUS a SOKA-BAU został poprzedzony długotrwałymi przygotowaniem i konsultacjami, o których mowa poniżej. Umowa została podpisana 24 maja 2018 roku.

Lipiec 2014 - maj 2018

1. Kontakt nawiązany pomiędzy SOKA-BAU i ZUS za pośrednictwem Ambasady Niemiec w Polsce.
2. Spotkania robocze i robocza wymiana informacji na temat sytuacji prawnej w Niemczech i Polsce. Były to między innymi warunki, jakie należy spełnić, aby ZUS mógł otrzymywać środki bezpośrednio z Funduszu Urlopowego, rozliczać je na kontach płatników składek i rejestrować je na kontach ubezpieczonych.
3. Realizacja projektu e-składki (e-składka) przez ZUS, w ramach którego wdrożono rozwiązanie umożliwiające płatnikom jednorazową wpłatę składek na nadany przez ZUS indywidualny numer rachunku składkowego (NRS).

Aspekty prawne na szczeblu unijnym i krajowym ułatwiające lub utrudniające porozumienie

W prawie europejskim nie ma regulacji prawnych, które mogłyby utrudniać realizację umowy. Porozumienie wpisuje się w konstrukcję europejskiego systemu koordynacji ubezpieczeń społecznych, o ile umożliwi ZUS zagwarantowanie, że składki za urlopy do SOKA-BAU podlegają składkom na ubezpieczenia społeczne w Polsce. Ponadto SOKA BAU jest wyraźnie upoważniona na mocy układu zbiorowego do udostępniania danych ZUS.

Istotnym problemem pozostaje identyfikacja wspólnego europejskiego narzędzia wymiany danych dotyczących ubezpieczeń społecznych, w tym obejmującego kwestie ubezpieczenia pracowników delegowanych. ZUS jest bardzo zaawansowany w pracach nad digitalizacją procesu gromadzenia i analizy danych ubezpieczeniowych. Należy się spodziewać, że proces wymiany danych między ZUS a SOKA-BAU również ulegnie dalszej cyfryzacji. Jednym z wyzwań jest dostosowanie tego procesu digitalizacji danych do działań UE w zakresie tworzenia wspólnych narzędzi.

Actions implemented to address hampers

Information sharing and direct transfer of contributions to ZUS allow for faster identification of infringements of the law by employers. Usual basic violations include failure by the employer to declare sums intermediated by the holiday fund in the reports to the relevant social insurance institution and tax authorities. In 2019, not many violations were identified.

Outcomes of the agreement

Funds transferred by SOKA-BAU In the period 06.2018 – 08.2020 – PLN 6.0 million

Average monthly number of insured persons for whom SOKA-BAU pays contributions

In 2019: In respect of equivalents for the unused leave – 343 employees

In 2020: In respect of equivalents for the unused leave – 390 employees

Based on the agreement, both SOKA-BAU and ZUS conduct information campaigns aimed at employers and posted workers. In addition, in agreement with SOKA-BAU, ZUS issues binding interpretations of regulations for companies regarding holiday benefits.

Działania wdrożone w celu usunięcia przeszkód

Udostępnianie informacji i bezpośrednie przekazywanie składek do ZUS pozwalają na szybszą identyfikację naruszeń prawa przez pracodawców. Zwykłe podstawowe naruszenia obejmują niezadeklarowanie przez pracodawcę kwot, w których przekazaniu fundusz urlopowy pośredniczy, w zgłoszeniach do właściwego zakładu ubezpieczeń społecznych i organów podatkowych. W 2019 roku zidentyfikowano niewiele naruszeń.

Rezultaty porozumienia

Środki przekazane przez SOKA-BAU W okresie 06.2018 - 08.2020 - 6,0 mln zł

Średnia miesięczna liczba ubezpieczonych, za które SOKA-BAU opłaca składki

W 2019 r. : ekwiwalent za niewykorzystany urlop - 343 pracowników

W 2020 r. : ekwiwalent za niewykorzystany urlop - 390 pracowników

Na podstawie porozumienia SOKA-BAU i ZUS prowadzą kampanie informacyjne skierowane do pracodawców i pracowników delegowanych. Dodatkowo, w porozumieniu z SOKA-BAU, ZUS wydaje wiążące interpretacje przepisów dla firm o świadczeniach urlopowych.

Guidelines

Agreement concerning bilateral cooperation and information exchange between the National Labour Inspectorate in the Republic of Poland and the Work Environment Authority of the Kingdom of Denmark

AUTHOR: JAKUB KUS (ZZ BUDOWLANI)

February 2021

Risks or concerns addressed by the agreement

The Polish Labour Inspectorate tries to maintain close cooperation with liaison offices in relevant institutions of other EU countries. The Danish Inspectorate is interested in cooperation with the Polish Inspectorate, mainly due to numerous complaints from Danish trade unions about the behaviour of Polish companies posting workers to Denmark. The complaints mainly concern the failure to comply with Danish collective agreements and the breach of other labour law provisions (including working time). The complaints also concern the underestimated - according to the trade unions - remuneration of posted workers. Trade unions say that companies that violate labour law are dumping in the labour market.

Objectives

The agreement regulates cooperation and exchange of information on matters related to work performed in both countries on the basis of contracts concluded directly with Danish or Polish employers. It also covers the transfer of employees to the territory of the parties through employment agencies providing employment services for foreign employers.

The main objective of the agreement is to improve the cooperation of control institutions tasked with overseeing posting in Poland and Denmark. Institutional cooperation is defined in the Posting of Workers Directive (Directive 96/71/EC) and in the Enforcement

Wytyczne

Umowa o współpracy bilateralnej i wymianie informacji pomiędzy polską Państwową Inspekcją Pracy a Urzędem Inspekcji Pracy Królestwa Danii

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Luty 2021

Ryzyka lub obawy objęte umową

Państwowa Inspekcja Pracy stara się utrzymywać ścisłą współpracę z biurami łącznikowymi w odpowiednich instytucjach innych krajów UE. Duński Inspektorat jest zainteresowany współpracą z Polskim Inspektoratem, głównie ze względu na liczne skargi duńskich związków zawodowych na zachowania polskich firm delegujących pracowników do Danii. Skargi dotyczą głównie nieprzestrzegania duńskich układów zbiorowych oraz naruszenia innych przepisów prawa pracy (w tym czasu pracy). Zarzuty dotyczą również zaniżonego - zdaniem związków zawodowych - wynagrodzenia pracowników delegowanych. Związki zawodowe twierdzą, że firmy, które łamią prawo pracy, stosują dumping na rynku pracy.

Cele

Umowa reguluje współpracę i wymianę informacji w sprawach związanych z pracą wykonywaną w obu krajach na podstawie umów zawieranych bezpośrednio z pracodawcami duńskimi lub polskimi. Obejmuje również przenoszenie pracowników na terytorium stron za pośrednictwem agencji zatrudnienia świadczących usługi zatrudnienia dla pracodawców zagranicznych.

Głównym celem porozumienia jest usprawnienie współpracy instytucji kontrolnych, których zadaniem jest nadzorowanie delegowania w Polsce i Danii. Współpraca instytucjonalna jest zdefiniowana w dyrektywie o delegowaniu pracowników (dyrektywa 96/71 / WE) oraz w dyrektywie w sprawie egzekwowania (dyrektywa 2014/67 /

Directive (Directive 2014/67/EU). The agreement details the terms of cooperation, taking into account the differences in the functioning of the labour market in Denmark and Poland.

The agreement covers both information exchange and bilateral cooperation. The IMI System is currently used for information exchange. In addition to being user friendly, it represents a safe and efficient tool for exchange of sensitive data, it has a built-in automatic translation tool and the possibility to attach files when formulating a request. Yet, there are some limitations such as the definite number of questions which limit the scope of information that might be requested.

The agreement therefore covers other forms of information exchange in an organized manner (electronic and traditional).

The agreement also covers various forms of direct cooperation (meetings, exchange of staff, consultation), including inspections within the scope of the Inspectorates' competences concerning posting companies and their employees. Controls may be carried out at the request of one party in the other party's country or even jointly.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers: The agreement allows posted workers to have wider access to information on the conditions of posting to Denmark and Poland. The Polish inspectorate (liaison office) provides detailed advice in this area. The posted worker also receives information on the procedure for submitting complaints to the inspectorate and the conditions of their consideration in the host country.

Companies: The current and detailed exchange of information on changes in labour law, collective agreements and on specific companies violating the provisions on posting significantly hinders the provision of services by these companies abroad and restores the principles of fair competition in the area of posting. It is important that such information exchange is systemic in nature, and not only at the request of the party. Polish companies wishing to obtain information on employment conditions in Denmark (including collective agreements) may ask the Polish inspectorate to provide such information.

Unions: Formally, trade unions may join the implementation of the agreement by providing up-to-date information on the state of collective bargaining and the content of collective agreements. The unions may also submit complaints and count on their consideration in both the sending and the host country, using the cooperation of the inspectorate.

UE). Umowa precyzuje warunki współpracy, uwzględniając różnice w funkcjonowaniu rynku pracy w Danii i Polsce.

Umowa obejmuje zarówno wymianę informacji, jak i współpracę dwustronną. System IMI jest obecnie używany do wymiany informacji. Oprócz tego, że jest przyjazny dla użytkownika, stanowi bezpieczne i wydajne narzędzie do wymiany danych wrażliwych, posiada wbudowane narzędzie do automatycznego tłumaczenia oraz możliwość załączania plików podczas formułowania wniosku. Istnieją jednak pewne ograniczenia, takie jak określona liczba pytań, które ograniczają zakres wymaganych informacji.

Umowa obejmuje zatem inne formy zorganizowanej wymiany informacji (elektroniczne i tradycyjne).

Porozumienie obejmuje również różne formy bezpośredniej współpracy (spotkania, wymiana pracowników, konsultacje), w tym kontrole w zakresie kompetencji Inspektoratów dotyczących delegujących firm i ich pracowników. Kontrole mogą być przeprowadzane na wniosek jednej strony w kraju drugiej strony lub nawet wspólnie.

„Uzasadnienie biznesowe” dotyczące przyjęcia umowy z punktu widzenia interesariuszy

Pracownicy:	Umowa umożliwia delegowanym pracownikom szerszy dostęp do informacji o warunkach delegowania do Danii i Polski. Szczegółowych porad w tym zakresie udziela polski inspektorat (biuro łącznikowe). Pracownik delegowany otrzymuje również informacje o procedurze składania skarg do inspektoratu i warunkach ich rozpatrywania w kraju przyjmującym.
Firmy:	Bieżąca i szczegółowa wymiana informacji o zmianach w prawie pracy, układach zbiorowych oraz o konkretnych firmach naruszających przepisy o delegowaniu znacząco utrudnia świadczenie usług przez te firmy za granicą i przywraca zasady uczciwej konkurencji w zakresie delegowania. Ważne jest, aby taka wymiana informacji miała charakter systemowy, a nie tylko na wniosek strony. Polskie firmy, które chcą uzyskać informacje o warunkach zatrudnienia w Danii (w tym o umowach zbiorowych), mogą zwrócić się do polskiego inspektoratu o udzielenie takich informacji.
Związki zawodowe:	Formalnie związki zawodowe mogą przyłączyć się do realizacji umowy, przekazując aktualne informacje o stanie rokowań zbiorowych i treści układów zbiorowych. Związki mogą również składać skargi i liczyć na ich rozpatrzenie zarówno w kraju wysyłającym, jak i przyjmującym, przy współpracy z inspektoratem.

Employers' organisations:	They are not included in the scope of the agreement. They can receive information on posting in Denmark and Poland to the extent provided by the labour inspectorates.
Sectoral Funds	Not applicable
Institutional actors:	Other institutional partners are involved in implementing the objectives of the agreement when the parties are not competent to solve the problems that arise. They also benefit from easier access to information necessary to monitor the application of the Posting of Workers Directive in the area of competence and interests of each institution (insurance, tax, etc.) The Parties agreed to indicate the relevant institutions.

Main features

Forms of cooperation

The participating national authorities commit to assist each other within the framework of the competences conferred on them by national law, in particular through:

1. Control of compliance with the provisions on the posting of workers specified by Directive 96/71/EC and Directive 2014/67/EU in the countries of the parties, and, if agreed by both parties, conducting joint controls in matters regarding cross-border employment relationships;
2. Cooperation in the development, implementation and distribution of information activities and preventive measures, in particular the exchange of information and education materials related to the areas of operation of the parties, addressed to posted workers or migrants for work purposes to the territories of the parties, as well as employers and other interested people;
3. Taking actions, in accordance with their competences, in matters concerning persons performing gainful work in the territory of the party, in particular in on the basis of received complaints and other indications about irregularities with work, and in cases where the party is not entitled to act – informing about the incident of the competent authority;
4. Exchange of information on the degree of implementation of actions taken by the party in a given case on the request of the other party, whenever required;
5. Mutual information on serious, fatal and collective accidents involving nationals of the parties, occurring in connection with work performed in their territory, in the event of becoming aware of such an event;

Organizacje pracodawców:	Nie są objęte zakresem umowy. Mogą otrzymać informacje o delegowaniu do Danii i Polski w zakresie zapewnianym przez inspektoraty pracy.
Fundusze sektorowe:	Nie dotyczy
Podmioty instytucjonalne :	Inni partnerzy instytucjonalni są zaangażowani w realizację celów porozumienia, gdy strony nie są kompetentne do rozwiązywania pojawiających się problemów. Korzystają również z łatwiejszego dostępu do informacji niezbędnych do monitorowania stosowania dyrektywy o delegowaniu pracowników w obszarze kompetencji i interesów każdej instytucji (ubezpieczenia, podatki itp.). Strony uzgodniły, że wskażą odpowiednie instytucje.

Główne cechy

Formy współpracy

Uczestniczące organy krajowe zobowiązują się do wzajemnej pomocy w ramach kompetencji przyznanych im na mocy prawa krajowego, w szczególności poprzez:

1. Kontrolę przestrzegania przepisów dotyczących delegowania pracowników określonych Dyrektywą 96/71 / WE i Dyrektywą 2014/67 / UE w krajach stron oraz, jeśli uzgodnią to obie strony, prowadzenie wspólnych kontroli w sprawach dotyczących transgranicznych stosunków pracy;
2. Współpracę przy opracowywaniu, realizacji i rozpowszechnianiu działań informacyjnych i prewencyjnych, w szczególności w zakresie wymiany informacji i materiałów edukacyjnych związanych z obszarami działania stron, skierowanych do pracowników delegowanych lub migrantów w celach zarobkowych na terytorium stron, a także pracodawców i innych zainteresowanych osób;
3. Podejmowanie działań, zgodnie ze swoimi kompetencjami, w sprawach dotyczących osób wykonujących pracę zarobkową na terytorium strony, w szczególności na podstawie otrzymanych skarg i innych wskazań o nieprawidłowościach w pracy, a także w przypadkach, gdy strona nie jest uprawniona do działania - poinformowanie o zdarzeniu właściwego organu;
4. Wymianę informacji o stopniu realizacji działań podjętych przez stronę w danej sprawie na wniosek drugiej strony, gdy zajdzie taka potrzeba;
5. Wzajemne informowanie się o wypadkach ciężkich, śmiertelnych i zbiorowych obywateli stron, które nastąpiły w związku z pracą wykonywaną na ich terytorium, w przypadku powzięcia wiadomości o takim zdarzeniu;

6. Providing information, at the request of a party, according to the possessed knowledge, about: collective bargaining agreements from specific industries in the countries of the parties, e.g. via the national website on posting referred to in Directive 2014/67/EU, and workers' organisations;
7. Sharing, upon request from a party, information on changes in regulations the laws in force in the territory of the party relating to matters covered the scope of this Agreement;
8. Exchange of available information on the structures, functions and competences of the institution controlling and supervising working conditions, their working methods and carrying out monitoring activities, for a better understanding of the principles and traditions that characterise the respective labour markets;
9. Organizing, if necessary, joint meetings at the expert level, with the goal of discussing current issues covered by cooperation and participation in meetings and seminars, conferences and other events organized by the parties, as well as by other domestic and foreign bodies as relevant.

Process of adoption and role of different involved stakeholders

The agreement with the Danish inspectorate was concluded at the end of 2017. A similar agreement was signed with the Slovak inspectorate on 9 September 2019. The pandemic has limited closer direct contact. The report of the Polish inspectorate for 2019 shows that contact was maintained before the pandemic. Polish trade unions received information about the agreement quite late.

Eight other agreements were concluded with: Belgium, Lithuania, Norway, the Netherlands, Luxembourg, Bulgaria, Estonia, Spain, all covering similar issues regarding posting of workers in the framework of the provision of services.

EU level and national level legal aspects smoothing or hampering the agreement

There is no direct influence from the EU or national level on the implementation of the agreement.

The Directive 96/71/EC in its Article 4 provides for the possibility to address liaison offices in other MS with requests on posting of workers but until the transposition of the Enforcement Directive

6. Udzielanie informacji na żądanie strony, zgodnie z posiadaną wiedzą, o: układach zbiorowych pracy z określonych branż w krajach stron, np. za pośrednictwem krajowej strony internetowej poświęconej delegowaniu, o którym mowa w dyrektywie 2014/67 / UE, oraz organizacji pracowników;
7. Udostępnianie na żądanie strony informacji o zmianach przepisów prawa obowiązujących na terytorium strony w sprawach objętych zakresem niniejszej Umowy;
8. Wymiana dostępnych informacji o strukturach, funkcjach i kompetencjach instytucji kontrolującej i nadzorującej warunki pracy, jej metodach pracy i prowadzeniu działań monitorujących, w celu lepszego zrozumienia zasad i tradycji, które charakteryzują poszczególne rynki pracy;
9. Organizowanie, w razie potrzeby, wspólnych spotkań na szczeblu eksperckim, w celu omówienia bieżących zagadnień objętych współpracą oraz udziału w spotkaniach i seminariach, konferencjach i innych wydarzeniach organizowanych przez strony, a także odpowiednie inne podmioty krajowe i zagraniczne.

Proces przyjęcia umowy i rola różnych zaangażowanych stron

Umowa z duńskim inspektoratem została zawarta pod koniec 2017 r. Podobną umowę podpisano ze słowackim inspektoratem 9 września 2019 r. Pandemia ograniczyła bliższe kontakty bezpośrednie. Z raportu polskiego inspektoratu za 2019 rok wynika, że kontakt był utrzymywany przed pandemią. Polskie związki zawodowe dość późno otrzymały informację o porozumieniu.

Zawarto osiem innych umów z: Belgią, Litwą, Norwegią, Holandią, Luksemburgiem, Bułgarią, Estonią, Hiszpanią, z których wszystkie dotyczą podobnych kwestii dotyczących delegowania pracowników w ramach świadczenia usług.

Aspekty prawne na szczeblu unijnym i krajowym ułatwiające lub utrudniające porozumienie

Nie ma bezpośredniego wpływu szczebla unijnego ani krajowego na realizację porozumienia.

Dyrektywa 96/71 / WE w art. 4 przewiduje możliwość kierowania wniosków w sprawie delegowania pracowników do biur łącznikowych w innych państwach członkowskich, ale do czasu transpozycji

2014/67/EU and the introduction of Internal Market Information System (IMI), there were no clear-cut and uniform rules on the scope and mode of information exchange with regard to posted workers. With the transposition of the Enforcement Directive, the IMI was designated as the only official medium for exchange of information.

Extended cooperation of labour inspectorates is possible on the basis of the directives, it is allowed by national law and even recommended by the Senior Labour Inspectors Committee.

Actions implemented to address hampers

Not much information is available on such aspects. Anyway, joint inspections were not undertaken..

Outcomes of the agreement

As part of the implementation of the bilateral cooperation agreement with the Work Environment Authority of the Kingdom of Denmark, the PIP delegation paid a visit to Copenhagen in 2019, where the topic of posting workers to work in the territory of both countries and the cooperation of liaison institutions were discussed. In turn, the Polish inspectorate received a delegation from the Task Force for Corporate Social Responsibility, operating within the structures of the Copenhagen authorities, whose aim is to guarantee fair wages and working conditions for all employees involved in projects implemented for the city. Information on accidents at work of posted workers is exchanged on an ongoing basis.

dyrektywy 2014/67 / UE w sprawie egzekwowania i wprowadzenia systemu wymiany informacji na rynku wewnętrznym (IMI) nie istniały jasne i jednolite zasady dotyczące zakresu i trybu wymiany informacji w odniesieniu do pracowników delegowanych. Wraz z transpozycją dyrektywy o egzekwowaniu IMI został wyznaczony jako jedyny oficjalny środek wymiany informacji.

Rozszerzona współpraca inspektoratów pracy jest możliwa na podstawie dyrektyw, jest to dozwolone przez prawo krajowe, a nawet zalecane przez Komitet Głównych Inspektorów Pracy.

Działania wdrożone w celu usunięcia przeszkód

Niewiele jest dostępnych informacji na temat takich aspektów. Dotychczas nie podjęto wspólnych inspekcji.

Wyniki porozumienia

W ramach realizacji dwustronnej umowy o współpracy z Urzędem Inspekcji Pracy Królestwa Danii delegacja PIP złożyła w 2019 roku wizytę w Kopenhadze, gdzie omówiono temat delegowania pracowników do pracy na terenie obu krajów oraz współpracę instytucji łącznikowych. Z kolei polski inspektorat przyjął delegację Zespołu Zadaniowego ds. Społecznej Odpowiedzialności Biznesu, działającego w strukturach władz Kopenhagi, którego celem jest zapewnienie godziwych wynagrodzeń i warunków pracy wszystkim pracownikom zaangażowanym w projekty realizowane na rzecz miasta. Na bieżąco wymieniane są informacje o wypadkach przy pracy pracowników delegowanych.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

O projekcie

Celem projektu ISA jest promowanie i wzmacnianie międzynarodowej współpracy między władzami i interesariuszami zaangażowanymi w delegowanie pracowników w sektorze budowlanym, poprzez promowanie zawierania porozumień o wymianie informacji, których celem jest monitorowanie i ułatwianie delegowania pracowników.

Projekt będzie opierał się na praktykach istniejących między funduszami sektorowymi we Włoszech, w Niemczech, Austrii i Francji, gdzie fundusze sektorowe, wspierane przez rządy, wynegocjowały i z powodzeniem zawarły porozumienia upraszczające procedury niezbędne do delegowania pracowników za granicę, dając jednocześnie pracodawcom pewność, że delegowanie pracowników za granicę uwzględnia płatności należnych składników wynagrodzenia (takich jak dodatek urlopowy) i pozwalając łatwo sprawdzić odpowiednie informacje w kraju wysyłającym, jeśli zajdzie taka potrzeba.

www.isa-project.eu

Projekt jest realizowany przy wsparciu finansowym Komisji Europejskiej.

Wyrażone opinie odzwierciedlają jedynie poglądy autorów.

Komisja Europejska nie ponosi odpowiedzialności za jakiegokolwiek wykorzystanie informacji w nim zawartych.



PT



Guidelines

Bilateral Agreement: Portugal-Belgium

“Bilateral Agreement between the Authority for Working Conditions of Portugal and the Service for Control of Social Laws and the Service for Control of Well Being at Work, both from the Federal Public Service Employment, Social Work and Consultation of the Kingdom of Belgium”

AUTHORS: LUÍSA VELOSO, JOANA MARQUES, CATARINA SALES OLIVEIRA (ISCTE-IUL)

February 2021

Risks or concerns addressed by the agreement

The Bilateral Agreement was signed in 2009. The main risks and concerns addressed, as mentioned on the agreement preamble, relate to the need to ensure the effective protection in employment, safety and hygiene, and working conditions of workers posted from the territory of one of the countries to the territory of the other, as well as eliminating hazards that cause accidents and occupational diseases.

The historical concern of the two parties regarding working conditions in both countries can be seen in the Agreement signed between the Portuguese and Belgian Government on Living and Working Conditions, Vocational Training and Social Promotion and Culture of Portuguese Workers and Their Resident Families in the Belgium, signed in Brussels on 29 November 1978, confirmed by Decree 22/79.

The Bilateral agreement “Portugal-Belgium” of 2009 increased the scope of labour relations between the two countries. The main guidelines of the 2009 bilateral agreement are aimed at ensuring job protection, health and safety, and proper working conditions for workers posted in the territories of the two countries. In addition, it follows Directive 96/71/EC, which aims to eliminate the dangers that cause accidents at work and occupational diseases related to workers posted in the provision of services in both countries.

Diretrizes

Acordo bilateral: Portugal - Bélgica

“Acordo bilateral entre a Autoridade para as Condições do Trabalho de Portugal e o Serviço para Controlo das Leis Sociais e Serviço de Controlo do Bem Estar no Trabalho, ambos parte do Serviço Público Federal do Emprego, Trabalho e Concertação Social do Reino da Bélgica”

AUTORES: LUÍSA VELOSO, JOANA MARQUES, CATARINA SALES OLIVEIRA (ISCTE-IUL)
Fevereiro 2021

Riscos ou preocupações abordadas pelo acordo

O Acordo Bilateral foi assinado em 2009. Os principais riscos e vulnerabilidades abordados, tal como mencionado no preâmbulo do acordo, estão relacionados com a necessidade de assegurar a proteção efetiva no emprego, a segurança e higiene e as condições laborais dos trabalhadores destacados a partir do território de um dos países para o outro, bem como a eliminação de situações de perigo que possam conduzir a acidentes de trabalho ou doenças ocupacionais.

Existe uma preocupação histórica, por parte das duas partes, relativamente às condições de trabalho em ambos os países, o que pode ser observado no Acordo assinado entre o Governo Português e o Governo Belga relativo às condições de vida e de trabalho, à formação profissional e promoção social e à cultura dos trabalhadores portugueses e das suas famílias residentes na Bélgica, assinado em Bruxelas a 29 de Novembro de 1978, e confirmado pelo Decreto 22/79. O acordo Bilateral de 2009 entre Portugal e a Bélgica veio aumentar o alcance das relações laborais entre os dois países. As principais orientações do acordo bilateral de 2009 destinam-se a assegurar a proteção do emprego, a saúde e a segurança e condições de trabalho dignas para os trabalhadores destacados nos territórios dos dois países. Adicionalmente, este acordo segue também a Diretiva 96/71/EC desenvolvida com o intuito de eliminar os perigos que podem estar na origem de acidentes de trabalho e doenças ocupacionais envolvendo os trabalhadores destacados no âmbito de uma prestação de serviços nestes dois países.

Objectives

The bilateral agreement signed between Portugal and Belgium has the following aims:

- strengthen bilateral cooperation between the Minister of Employment and the Federal Service for Employment, Labour and Social Dialogue of Belgium, the Ministry of Labour, Solidarity and Social Security of Portugal, and the Portuguese Authority for Working Conditions (ACT) with regard to the posting of workers and contracted out services;
- enhance information exchange on posted workers, particularly as regards; conditions of employment; maximum work periods and minimum rest; minimum wage (including payment for overtime); the conditions of placement of workers, in particular by temporary agencies; security, health and hygiene of workers; and other irregularities in employment and working conditions.
- Protecting posted workers' rights and working conditions in the territories of the Parties.

Objetivos

O acordo bilateral assinado entre Portugal e a Bélgica tem como objetivos:

- Fortalecer a cooperação bilateral entre o Ministério do Emprego e o Serviço Público Federal do Emprego, Trabalho e Concertação Social da Bélgica e o Ministério do Trabalho, Solidariedade e Segurança Social e a Autoridade para as Condições do Trabalho (ACT) de Portugal relativamente ao destacamento de trabalhadores no âmbito de uma prestação de serviços;
- Promover a troca de informação sobre os trabalhadores destacados, particularmente no que diz respeito a: condições de emprego; períodos máximos de trabalho e períodos mínimos de descanso; salário mínimo (incluindo o pagamento de trabalho suplementar); condições de colocação de trabalhadores, particularmente através de agências de trabalho temporário; segurança, higiene e saúde dos trabalhadores destacados; e outras irregularidades em matéria de emprego e condições de trabalho.
- Proteger os direitos e as condições de trabalho dos trabalhadores destacados nos territórios de ambas as partes.

'Business case' for adopting the agreement from the standpoint of stakeholders

Workers:	<p>Protection of the rights and working conditions of posted workers. The central objective of the agreement is to ensure that there is no risk of violating rights nor fraudulent practices.</p> <p>Workers have access to information with promotion actions.</p>
Companies:	<p>The agreement mentions that it is a matter of regulating posted workers, which leaves doubts about the rules for workers with an uncertain term contract in the country of origin. However, it is worth noting that the parties undertake to exchange information of a legal nature and the activities that companies practice in the host country.</p> <p>The agreement entails the promotion of actions for the dissemination of information, notably addressing companies' need for information on the counterpart's legislation concerning posting and undeclared work, and the agreement contributes to this information exchange.</p>
Unions:	<p>The focus of the agreement on protecting workers' rights is in line with unions' objectives.</p> <p>Unions need information on the counterpart's legislation concerning posting and undeclared work, and the agreement contributes to this information exchange.</p> <p>Unions share the information provided by ACT on their websites.</p>
Employers' organisations:	<p>Employers require information on the counterpart's legislation concerning posting and working legislation, and the agreement contributes to gathering and disseminating this information exchange, assisting in the work of Employers' organizations with their members.</p>
Sectoral Funds	N.A.
Institutional actors:	<p>National authorities need methodological support and training, which the agreement supports</p>

Note: All the above mentioned actors - workers, companies, unions and employers' organisations need methodological support and training.

Business case' para a adoção do acordo do ponto de vista dos parceiros

Todos os parceiros beneficiam do acordo, sobretudo considerando a **importância da partilha de informação**.

Trabalhadores:	Proteção dos direitos e das condições laborais dos trabalhadores destacados. O objetivo central do acordo passa pela garantia de que não existe risco de violação de direitos, nem de práticas fraudulentas. Os trabalhadores têm acesso a informação através de ações de promoção.
Empresas:	O acordo remete para o facto de a regulamentação dos trabalhadores levantar dúvidas relativas às regras a aplicar aos trabalhadores com contrato a termo indeterminado no país de origem. Nesse sentido, as partes envolvidas comprometem-se a partilhar informação de natureza legal bem como relativa às atividades das empresas no país de acolhimento. O acordo envolve a promoção de ações com vista à disseminação de informação, dirigindo-se particularmente às necessidades das empresas em termos da legislação homóloga sobre destacamento e trabalho não declarado, e o acordo contribui então para esta partilha de informação.
Sindicatos:	O enfoque deste acordo na proteção dos direitos dos trabalhadores, entra em linha de conta com os objetivos dos sindicatos. Os sindicatos necessitam de informações homólogas relativamente à legislação desenvolvida no âmbito do destacamento de trabalhadores e do trabalho não declarado, e o acordo contribui para a partilha deste tipo de informação. Os sindicatos partilham informação disponibilizada pela ACT nos seus sites.
Organizações patronais:	Os empregadores precisam de informações relativa à legislação do trabalho e do destacamento no país de destino, e este acordo contribui para a recolha e disseminação desta partilha de informação, a qual auxilia o trabalho desenvolvido pelas entidades empregadoras com os seus membros.
Fundos Setoriais:	N.A.
Atores Institucionais:	As autoridades nacionais necessitam de suporte metodológico e de formação, os quais são apoiados pelo acordo.

Nota: Todos os atores acima mencionados – trabalhadores, empresas, sindicatos e organizações empregadoras, necessitam de apoio metodológico e de formação.

Main features

Both parts agree to establish the following operational cooperation actions:

- 1) exchange information on workers posted within the framework of the provision of services in their respective territories, especially with regard to working conditions;
- 2) exchange information of legal nature and the type of activities carried out by employers of posted workers;
- 3) accomplish cooperation regarding information exchange on posting through the competent authorities registered at the Internal Market Information System (IMI);
- 4) organize annual sessions to discuss and evaluate the agreement signed between the parties.

In addition, both parts should meet annually to define joint cooperation actions at the operational level and evaluate ongoing actions. The annual meetings take place alternately in Belgium and Portugal.

The implementation process has included campaigns oriented to the promotion of declaring posted work (although it lacks financial resources), exchange of information between the inspection authorities of both countries and some joint inspections in companies identified as having undeclared posted workers. Besides undeclared work, there is also a concern with retributions, working time organization, temporary workers' situations, and the compliance with all the legal obligations, in particular concerning posting inside business groups.

There is a pilot project to promote joint inspection activities and campaigns to promote the end of undeclared work that includes Portugal, Belgium and Lithuania. This project includes the creation of a platform against undeclared posting work, that has stopped due to the current situation of COVID-19.

There is also a clearer articulation between the Inspectorates and the Social Security Institutes; both entities are now working together more closely. ACT promotes training for employees of Social Security Institutes on posting.

Principais características

Ambas as partes concordam com o estabelecimento das seguintes ações operacionais de cooperação:

- 1) troca de informação relativa aos trabalhadores destacados no âmbito de uma prestação de serviços nos seus respetivos territórios, especialmente em relação às condições de trabalho;
- 2) troca de informação de natureza legal e tipo de atividades desenvolvidas pelas empresas com trabalhadores destacados;
- 3) efetivação da cooperação decorrente da troca de informação sobre destacamento, através das autoridades competentes registadas no Sistema de Informação do Mercado Interno (IMI);
- 4) organização de sessões anuais com vista à discussão e avaliação do acordo assinado entre as partes.

Adicionalmente, ambas as partes devem reunir-se anualmente para definir as ações conjuntas de cooperação a um nível operacional e para efetuar a avaliação das ações em curso. As reuniões anuais acontecem de forma alternada na Bélgica e em Portugal.

Este processo de implementação incluiu campanhas orientadas para a promoção do trabalho destacado declarado (embora os recursos financeiros sejam escassos), partilha de informação entre as autoridades inspetivas de ambos os países e algumas inspeções conjuntas realizadas em empresas identificadas por terem trabalhadores destacados não declarados. Para além do trabalho não declarado, existe também uma preocupação a nível das remunerações, da organização dos períodos de trabalho, da situação dos trabalhadores temporários e do cumprimento das obrigações legais, particularmente no que diz respeito ao destacamento realizado dentro de grupos empresariais.

Existe um projeto piloto que visa a promoção de inspeções conjuntas e campanhas com vista à promoção do fim do trabalho não declarado que incluem Portugal, a Bélgica e a Lituânia. Este projeto inclui a criação de uma plataforma contra o trabalho destacado não declarado, embora a mesma tenha sido interrompida devido à atual situação do COVID-19.

Existe também uma articulação mais clara entre as entidades de Inspeção do Trabalho e as entidades de Segurança Social; ambas as entidades estão agora a trabalhar de forma mais próxima. A ACT promove formação relativa ao destacamento para funcionários dos Institutos de Segurança Social.

Process of adoption and role of different involved stakeholders

The agreement results from a process of negotiation between the national bodies of the Labour Inspectorates.

The authorities responsible for establishing and implementing the agreement are:

- in Portugal, the Authority for Working Conditions (ACT);
- In Belgium, the Service for the Control of Social Laws and the Service for Control of Well Being at Work, both from the Federal Public Employment Service, Work and Social Consultation.

The adoption and implementation of the agreement did not involve other stakeholders.

EU level and national level legal aspects smoothing or hampering the agreement

The Agreement endorses:

- the European Social Charter, considering both part's reservations;
- the Charter of Fundamental Rights of the European Union (specifically Article 15 on professional freedom and the right to engage in work in the territory of EU member-States; and Article 31 on fair and just working conditions);
- the Directive 96/71/EC concerning the posting of workers in the framework of the provision of services;
- the Directive 2014/67/EU on the enforcement of Directive 96/71/EC;
- the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- The International Labour Organisation Convention no. 181 on Private Employment Agencies (1997) (particularly Article 8 on the protection of migrant workers).

The main issues raised are the difficulty in homogenising the legal frameworks (e.g. on vacation periods). The difficulty also arises from the different legal concepts applied in each country (e.g.: workers do not understand their pay slip, so they cannot evaluate if it is correct). It is important to discuss it at the European level, in order to, if possible, homogenize procedures, languages, etc.

Processo de adoção do acordo e papel dos diferentes parceiros envolvidos

O acordo resulta de um processo de negociação entre os organismos nacionais responsáveis pela Inspeção do Trabalho.

As autoridades responsáveis pelo estabelecimento e implementação do acordo são:

- Em Portugal, a Autoridade para as Condições do Trabalho (ACT);
- Na Bélgica, o Serviço para Controlo das Leis Sociais e o Serviço de Controlo do Bem-Estar no Trabalho, ambos incluídos no Serviço Público Federal do Emprego, Trabalho e Concertação Social.

Não houve envolvimento de outros parceiros na adoção e implementação deste acordo.

Aspetos legais, a nível Nacional e da UE, que podem facilitar ou dificultar o acordo

O acordo endossa:

- A Carta Social Europeia, tendo em conta as reservas de ambas as partes;
- a Carta dos Direitos Fundamentais da União Europeia (em particular o artigo 15º relativo à liberdade profissional e o direito de exercer atividade laboral no território dos Estados Membros da União Europeia; e artigo 31º relativo a condições de trabalho justas e equitativas);
- a Diretiva 96/71/EC relativa ao destacamento de trabalhadores no âmbito de uma prestação de serviços;
- a Diretiva 2014/67/EU relativa à execução da Diretiva 96/71/EC;
- a Diretiva 95/46/EC relativa à proteção das pessoas singulares no que diz respeito ao tratamento de dados pessoais e à livre circulação desses dados;
- A Convenção da Organização Internacional do Trabalho nº 181, relativa às Agências de Emprego Privadas (1997) (especialmente o artigo 8º sobre a proteção dos trabalhadores migrantes).

Os principais problemas suscitados prendem-se com a dificuldade na homogeneização dos enquadramentos legais (relativos, por exemplo, aos períodos de férias), para além da aplicação de conceitos legais diferentes em cada país (dando origem, por exemplo, a que os trabalhadores não consigam entender o seu recibo de vencimento e, conseqüentemente, não consigam verificar se está correto). É importante poder discutir estas questões a nível Europeu no sentido de procurar, se possível, homogeneizar os procedimentos, as línguas utilizadas, etc.

Actions implemented to address hampers

No information available.

Outcomes of the agreement

The main outcomes of the agreement include:

- joint inspections in companies identified;
- joint activities at a multilateral level, e.g. under the European Labour Authority (ELA) and the European Platform tackling undeclared work;
- bilateral meetings to discuss and evaluate the Agreement, translated in the dissemination of the information, the preparation of joint inspections and, generally speaking, the possibility of having a joint platform to intensify cooperation;
- information, dissemination and training activities, namely concerning the IMI platform, which resulted in a higher efficiency in the compliance of the legal obligations, namely the retributions due in the host country;
- participation of the Portuguese Social Security Institute in cooperation activities.

In addition, in 2017, the Secretary of State for the Fight Against Social Fraud, Privacy and the North Sea, attached to the Minister of Social Affairs and Public Health of Belgium and The Minister of Labour, Solidarity and Social Security of Portugal made a joint statement on the development of cooperation in the fight against cross-border social fraud with regard to the enforcement of the rules on social policy, in the case of cross-border employment, and with regard to the enforcement of social security legislation.

Sources

- Information gathered by conversation with ACT.
- Fernandes, S. F. G. (2017) *A tributação dos trabalhadores transfronteiriços*. Tese de Mestrado em Fiscalidade Internacional. Escola Superior de Gestão, Hotelaria e Turismo - Universidade do Algarve. 163pp.

Ações implementadas com vista a ultrapassar as dificuldades

Sem informação disponível.

Resultados finais do acordo

Os principais resultados do acordo incluem:

- Inspeções conjuntas em empresas identificadas;
- Atividades conjuntas a nível multilateral, por exemplo no âmbito da Autoridade Europeia do Trabalho (ELA) e da Plataforma Europeia de combate ao trabalho não declarado;
- Reuniões bilaterais com o objetivo de discutir e avaliar o Acordo e que, por sua vez, se traduzem na disseminação de informação, na preparação de inspeções conjuntas e na possibilidade de se ter uma plataforma conjunta com vista ao aprofundamento da cooperação;
- Informação, disseminação e atividades formativas, nomeadamente referentes à plataforma IMI, o que resultou numa maior eficiência em termos de cumprimento das obrigações legais, nomeadamente nas remunerações devidas no país de acolhimento;
- Participação do Instituto da Solidariedade Social de Portugal em atividades de cooperação.

Adicionalmente, em 2017, a Secretaria de Estado para “a Luta contra a Fraude Fiscal, a Privacidade e o Mar do Norte”, parte integrante do Ministério dos Assuntos Sociais e Saúde Pública da Bélgica, e o Ministério do Trabalho e da Solidariedade Social de Portugal emitiram uma declaração conjunta relativa ao desenvolvimento da cooperação na luta contra a fraude social transfronteiriça no âmbito dos reforço das regras de política social no caso do emprego transfronteiriço, e no âmbito do reforço da legislação da segurança social.

Fontes

- Informação reunida através de conversa com a ACT.
- Fernandes, S. F. G. (2017) A tributação dos trabalhadores transfronteiriços. Tese de Mestrado em Fiscalidade Internacional. Escola Superior de Gestão, Hotelaria e Turismo - Universidade do Algarve. 163pp.

Guidelines

Bilateral Agreement: Portugal-France

“Administrative Cooperation Agreement between the Ministry of Labour from the French Republic and the Ministry of Labour, Solidarity and Social Security from the Portuguese Republic on the posting of workers and prevention of undeclared work”

AUTHORS: LUÍSA VELOSO, JOANA MARQUES, CATARINA SALES OLIVEIRA (ISCTE-IUL)
February 2021

Risks or concerns addressed by the agreement

The Administrative Cooperation Agreement between the Ministry of Labour from the French Republic and the Ministry of Labour, Solidarity and Social Security from the Portuguese Republic on the posting of workers and prevention of undeclared work was signed in 2017. On the Portuguese side, it involves the Authority for Working Conditions (ACT) and the national Social Security Institute.

The main risks and concerns addressed by the agreement are the following:

- Need to ensure the effective protection of employment, health and safety, and working conditions of posted workers in performing their tasks in the counterpart's territory;
- Need to eliminate the risks of accidents at work and occupational diseases;
- Need to guarantee the protection of workers' rights in situations of undeclared work.

Objectives

The main objectives of the agreement are:

- strengthening bilateral cooperation between the Ministry of Labour from the French Republic and the Ministry of Labour,

Diretrizes

Acordo bilateral Portugal – França

“Acordo de Cooperação Administrativa entre o Ministério do Trabalho da República Francesa e o Ministério do Trabalho, Solidariedade e Segurança Social da República Portuguesa, em matéria de destacamento de trabalhadores e prevenção do trabalho não declarado”

AUTHORES: LUÍSA VELOSO, JOANA MARQUES, CATARINA SALES OLIVEIRA (ISCTE-IUL)
Fevereiro 2021

Riscos ou preocupações abordados pelo acordo

Em 2017, foi assinado o Acordo de Cooperação Administrativa entre o Ministério do Trabalho da República Francesa e o Ministério do Trabalho, Solidariedade e Segurança Social da República Portuguesa, relativo ao destacamento de trabalhadores e à prevenção do trabalho não declarado. No caso português, este acordo envolve a Autoridade para as Condições de Trabalho (ACT) e o Instituto da Segurança Social (ISS). Os principais riscos e preocupações na origem do acordo foram os seguintes:

- Necessidade de assegurar a proteção eficaz do emprego, da saúde, da segurança, higiene e saúde no trabalho e das condições de trabalho dos trabalhadores destacados na realização das suas tarefas nos territórios das Partes;
- Necessidade de eliminar os riscos de acidentes de trabalhos e doenças ocupacionais;
- Necessidade de garantir a proteção dos direitos dos trabalhadores em situações de trabalho não declarado.

Objetivos

Os principais objetivos deste acordo são:

- Fortalecer a cooperação bilateral entre o Ministério do Trabalho da República Francesa e o Ministério do Trabalho, Solidariedade e

- Solidarity and Social Security from the Portuguese Republic with regards to the posting of workers and undeclared work;
- protecting posted workers' rights and working conditions in the territories of the Parties (including in the situation of undeclared work).

'Business case' for adopting the agreement from the standpoint of stakeholders

The agreement addresses the following needs:

Workers:	Protection of posted workers' rights and working conditions, including in the case of undeclared work.
Companies:	Need for information on the counterpart's legislation concerning posting and undeclared work.
Unions:	Need for information on the counterpart's legislation concerning posting and undeclared work.
Employers' organisations:	Need for information on the counterpart's legislation concerning posting and undeclared work.
Sectoral Funds	N.A.
Institutional actors:	Need for methodological support and training.

All relevant information is available online. ACT promotes various actions to disseminate information close to workers, companies, unions and employers' organisations.

Main features

Both parts agreed and implemented the following operational cooperation actions:

1. organization of information sessions on French and Portuguese legislation concerning the posting of workers and undeclared work for companies in both States;
2. drafting information documents on French and Portuguese legislation for companies, workers, professional organisations and trade unions;
3. developing methodological supports for labour inspectorates and their institutional partners;

Segurança Social da República Portuguesa no que diz respeito ao destacamento de trabalhadores e ao trabalho não declarado;

- Proteger os direitos e as condições de trabalho dos trabalhadores destacados nos territórios de ambas as Partes (incluindo também as situações de trabalho não declarado).

'Business case' para a adoção do acordo, por parte dos parceiros

O acordo tenta dar resposta às seguintes necessidades:

Trabalhadores:	Proteção a nível dos direitos dos trabalhadores destacados, incluindo os casos de trabalho não declarado.
Empresas:	Necessidade de obter informação sobre a legislação do país homólogo relativa ao destacamento e ao trabalho não declarado.
Sindicatos:	Necessidade de obter informação sobre a legislação do país homólogo relativa ao destacamento e ao trabalho não declarado.
Organizações patronais:	Necessidade de obter informação sobre a legislação do país homólogo relativa ao destacamento e ao trabalho não declarado.
Fundos setoriais:	N.A.
Atores institucionais:	Necessidade de apoio a nível metodológico e também ao nível da formação.

Toda a informação relevante está disponível online. A ACT promove várias ações com vista à disseminação de informação junto dos trabalhadores, empresas, sindicatos e organizações empregadoras.

Principais características

Ambas as partes acordaram e implementaram as seguintes ações de cooperação operacional:

- 1) Organização de sessões informativas, destinadas a empresas em ambos os Estados, sobre o enquadramento legal francês e português relativo ao destacamento de trabalhadores e ao trabalho não declarado;
- 2) Elaboração de documentos informativos relativos à legislação francesa e portuguesa, tendo como destinatários os trabalhadores, as empresas, entidades patronais e sindicatos;

4. organization of joint inspection interventions in France or Portugal, in which invited labour inspectors participate as observers;
5. organization of joint training sessions.

In addition, both parts commit to organise an annual meeting to define joint cooperation actions at operational level. The meetings shall be organised alternately in France and Portugal. They shall also be a moment to evaluate ongoing joint activities.

Process of adoption and role of different involved stakeholders

The agreement results from a process of negotiation between the two governments, at the level of the Ministries of Labour.

The governance of the agreement entails the following procedures:

- 1) annual meeting with the participation of the inspection authorities, the ministries of labour and the social security institutions of both countries to define joint cooperation actions at the operational level and evaluate ongoing actions. The annual meetings take place alternately in France and Portugal;
- 2) a steering committee with members from the Inspectorate authorities of each country that have an annual meeting and discuss the activities already developed and the activities to be developed, namely joint inspections and dissemination of information (the last one took place in March 2020);
- 3) in January 2020 a public Seminar took place to discuss posting and mobility. The seminar involved public authorities, as well as stakeholders. Inspection Authorities of Luxembourg and Belgium also participated;
- 4) a document was created to disseminate information related with the legal framework to be disseminated among French companies that want to post workers in Portugal; as well a brochure, created by DGT/France related with the legal framework to be disseminated among Portuguese companies that want to post workers in France. The documents are in both languages (Portuguese and French);
- 5) the development of joint inspections. The aim is to enlarge the joint inspections, but this requires financial support.

The authorities responsible for establishing and implementing the agreement are:

- 3) Desenvolvimento de suportes metodológico para as Inspeções do Trabalho e para os seus parceiros institucionais;
- 4) Organização de intervenções inspetivas conjuntas em França ou em Portugal, nas quais inspetores convidados participam enquanto observadores;
- 5) Organização de ações de formação conjuntas.

Adicionalmente, ambas as partes se comprometem a organizar um encontro anual, no qual se definem as ações de cooperação conjuntas ao nível operacional. Estes encontros devem ser organizados em Portugal e França de forma alternada, e devem também constituir um momento para avaliar as atividades conjuntas em curso.

Processo de adoção do acordo e papel dos diferentes parceiros envolvidos

O acordo resulta de um processo de negociação entre os dois governos, estabelecido ao nível dos respetivos Ministérios de Trabalho.

O processo de governança do acordo envolve os seguintes procedimentos:

- 1) Ocorrência de um encontro anual com a participação das Inspeções do Trabalho, Ministérios do Trabalho e instituições da Segurança Social de ambos os países, com vista à definição de ações de cooperação conjunta ao nível operacional, bem como a avaliação das ações em curso. O encontro anual ocorre de forma alternada em França e em Portugal;
- 2) Existência de uma comissão de coordenação com membros das Inspeções do Trabalho de ambos os países, os quais se reúnem anualmente para discutir as atividades que já estão a ser desenvolvidas e as atividades a serem desenvolvidas, nomeadamente inspeções conjuntas e atividades de disseminação de informação (a última reunião da comissão ocorreu em Março de 2020);
- 3) Em Janeiro de 2020 foi realizado um Seminário público para discussão das questões relacionadas com a mobilidade e o destacamento. Este seminário envolveu autoridades públicas bem como parceiros sociais. Contou também com a participação das Autoridades do Luxemburgo e da Bélgica;
- 4) Foi criado um documento com vista à disseminação de informação relativa ao enquadramento legal, o qual deverá ser divulgado junto de empresas Francesas que pretendam destacar trabalhadores em Portugal, bem como uma brochura, criada pela DGT/França, relativa ao enquadramento legal, destinada a ser partilhada junto de empresas portuguesas que pretendam destacar trabalhadores

- in France, the General-Directorate of Labour, through the Labour Inspectorate;
- in Portugal, ACT - Authority for Working Conditions, the competent authority for improving working conditions, and the Social Security Institute, each according to its competences.

The cooperation regarding information exchange on posting between the Labour Inspectorates is accomplished through the competent authorities registered at the Internal Market Information System (IMI).

EU level and national level legal aspects smoothing or hampering the agreement

The Agreement endorses:

- the European Social Charter, considering both parts' reservations;
- the Charter of Fundamental Rights of the European Union (specifically Article 15 on professional freedom and the right to work in the territory of EU Member States; and Article 31 on fair and just working conditions);
- the Directive 96/71/EC concerning the posting of workers in the framework of the provision of services;
- the Directive 2014/67/EU on the enforcement of Directive 96/71/EC;
- the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- the International Labour Organisation Convention no. 181 on Private Employment Agencies (1997) (particularly Article 8 on the protection of migrant workers).

No aspects were identified that aids or hinders the agreement.

Actions implemented to address hampers

Nothing in particular.

Outcomes of the agreement

The main outcomes of the agreement are:

- a) the sharing and discussion of information;
- b) the development of joint inspection activities;
- c) the dissemination of relevant information.

para França. Estes documentos encontram-se em ambas as línguas (Português e Francês);

- 5) Desenvolvimento de inspeções conjuntas. O objetivo consiste em ampliar as inspeções conjuntas, embora isso exija um suporte financeiro.

As autoridades responsáveis pelo estabelecimento e implementação deste acordo são:

- Em França, a Direção Geral do Trabalho, através da Inspeção do Trabalho;
- Em Portugal, a ACT – Autoridade para as Condições do Trabalho (autoridade que detém competências ao nível da melhoria das condições de trabalho) e o Instituto da Segurança Social, sendo que ambas as organizações atuam de acordo com as respetivas competências.

Relativamente à cooperação ao nível da partilha de informação sobre o destacamento entre as Inspeções do Trabalho, esta é desenvolvida através das autoridades competentes registadas no Sistema de Informação do Mercado Interno (IMI).

Aspetos legais, a nível nacional e da UE, que podem facilitar ou dificultar o acordo

O acordo endossa:

- A Carta Social Europeia, tendo em conta as reservas de ambas as partes;
- a Carta dos Direitos Fundamentais da União Europeia (em particular o artigo 15º relativo à liberdade profissional e o direito de exercer atividade laboral no território dos Estados Membros da União Europeia; e artigo 31º relativo a condições de trabalho justas e equitativas);
- a Diretiva 96/71/EC relativa ao destacamento de trabalhadores no âmbito de uma prestação de serviços;
- a Diretiva 2014/67/EU relativa à execução da Diretiva 96/71/EC;
- a Diretiva 95/46/EC relativa à proteção das pessoas singulares no que diz respeito ao tratamento de dados pessoais e à livre circulação desses dados;
- A Convenção da Organização Internacional do Trabalho nº 181, relativa às Agências de Emprego Privadas (1997) (especialmente o artigo 8º sobre a proteção dos trabalhadores migrantes).

Não foram identificados aspetos que facilitem ou dificultem a implementação do acordo.

More in detail, the main results achieved so far are:

- establishment of a steering committee (SC) that met for the first time in 2018 and meets annually to evaluate and monitor the Agreement;
- creation of a group of agents of proximity in both countries responsible for setting up the agreements, as defined on 11-12 December 2019;
- publication of the e-document “Temporary posting in France: what are your rights and obligations regarding Labour legislation?”, in order to disseminate the information among the Portuguese companies posting workers in France;
- Exchange programme for labour inspectors.

Ações implementadas com vista a ultrapassar as dificuldades

Nada em específico.

Resultados do acordo

Os principais resultados do acordo são:

- a) a partilha e discussão de informação;
- b) o desenvolvimento de inspeções conjuntas;
- c) a disseminação de informações relevantes.

De forma mais detalhada, os principais resultados atingidos até agora foram:

- O estabelecimento de uma comissão de coordenação que se reuniu pela primeira vez em 2018, e continua a reunir-se anualmente para avaliar e monitorizar o acordo;
- Criação, em ambos os países, de um grupo de agentes de proximidade responsáveis pelo estabelecimento de acordos, como definido a 11-12 de Dezembro de 2019;
- Criação do documento eletrónico *“Destacamento Temporário em França: Quais são os seus direitos e obrigações relativos à regulamentação do trabalho?”* por forma a disseminar informação entre as empresas Portuguesas que destacam trabalhadores;
- Programa de intercâmbio de inspetores do trabalho.

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

Sobre o projeto ISA:

Os objetivos do projeto ISA passam pela promoção e reforço da cooperação transnacional entre autoridades e parceiros envolvidos nos processos de destacamento de trabalhadores do sector da construção, promovendo acordos de partilha de informação que potenciem a monitorização e facilitação do destacamento de trabalhadores.

O projeto baseia-se nas práticas correntes envolvendo fundos setoriais em Itália, Alemanha, Áustria e França. Nestes países, os fundos setoriais, negociados, apoiados pelo Governo e concluídos com sucesso, simplificam os procedimentos necessários ao destacamento de trabalhadores no estrangeiro, ao mesmo tempo que se garante a conformidade em termos remuneratórios (como, por exemplo, a remuneração de férias) e permitindo verificar, quando necessário e de forma simplificada, informações relevantes relativas aos países de origem.

www.isa-project.eu

O projeto é realizado com o apoio financeiro da Comissão Europeia.

As opiniões expressas refletem apenas a visão dos autores.

A Comissão Europeia não é responsável por qualquer uso que possa ser feito das informações aqui contidas.



RO



Guidelines

Cooperation agreements to tackle illegal posting, breaching of legislation in the field of labour relations, working conditions, and health and safety at work signed by Romania with Greece, Hungary, Italy, Portugal and Spain

AUTHOR: ROMANIAN MINISTRY OF LABOUR AND SOCIAL JUSTICE

February 2021

Risks or concerns addressed by the agreement

These agreements were adopted to strengthen cooperation with other Member States in order to address concerns over illegal posting in the field of labour relations, working conditions, and health and safety at work.

A very important feature of all the agreements is the mapping of common areas of interest. Depending on the signing parties this can vary considerably. For example, a state which receives a large number of posted workers may wish to prioritize action, and a state that has a large diaspora could emphasize the importance of information and of occupational safety and health (OSH) measures. All these priority areas should be identified and included in the final text and their prioritization should be agreed upon by the signing parties.

The Protocols of cooperation concluded with Italy and Spain were signed because of the large number of Romanians working/posted to Italy/Spain. This aims to equalise working conditions for Romanian and local workers.

The Protocol with Hungary was based on the need for cooperation due to the cross-border mobility of workers and companies, the number of workers posted to/from Hungary being much lower.

The period prescribed for the transposition into national law of Directive 2014/67/EU expired on 18 June 2016. All Member States

Indicații

Acorduri de colaborare pentru abordarea detașării ilegale, a nerespectării legislației în domeniul relațiilor de muncă și sănătății și securității în muncă semnate de România, cu Grecia, Ungaria, Italia, Portugalia și Spania

AUTORAS: LUÍSA VELOSO, JOANA MARQUES, CATARINA SALES OLIVEIRA (ISCTE-IUL)
Fevereiro 2021

Riscurile sau provocările abordate de acord

Aceste acorduri au fost adoptate pentru a consolida colaborarea cu alte state membre pentru a aborda preocupările detașării ilegale în domeniul relațiilor de muncă și sănătății și securității în muncă.

O caracteristică foarte importantă a tuturor acordurilor este stabilirea zonelor comune de interes. În funcție de părțile semnate, aceasta poate varia semnificativ. De exemplu, un stat care primește un număr mare de lucrători detașați poate dori să prioritizeze acțiunea, iar un stat care are un număr mare de lucrători în străinătate poate scoate în evidență importanța informațiilor și măsurilor de protecție a muncii. Toate aceste zone de prioritate trebuie identificate și incluse în textul final, iar prioritizarea lor trebuie stabilită de către ambele părți semnate.

Protocoalele de colaborare încheiate cu Italia și Spania s-au semnat datorită numărului mare de români care lucrează/sunt detașați în Italia/Spania. Scopul este de a egaliza condițiile de lucru ale românilor cu cele ale lucrătorilor locali.

Protocolul cu Ungaria a avut la bază necesitatea colaborării ca urmare a mobilității transfrontaliere a lucrătorilor și companiilor, numărului de lucrători detașați în/din Ungaria fiind mult mai mic.

Perioada prevăzută pentru transpunerea în legislația națională a Directivei 2014/67/UEa expirat pe 18 iunie 2016. Toate statele membre au implementat această legislație (solicitând, printre altele, companiilor

have implemented this legislation (requiring, among others, companies which post workers on their territory to submit posting declarations before the beginning of the posting⁽¹⁾). However, there is still insufficient statistical data collected at the level of all Member States, based on a common methodology, comparable between Member States, to allow an accurate picture of the number of posted workers.

The other source of data collected at the European level is data on posting provided by the A1 certificate. It should be noted that A1 certificate data sources only provide an indicative picture of the phenomenon of intra-EU posting, because of several limitations of the data.

The statistics related to A1 documents issued in recent years by Romania and signatory states are shown below for 2014 – 2018⁽²⁾:

Romania as sending State – A1 documents issued/year						
		Romania (2014)	Romania (2015)	Romania (2016)	Romania (2017)	Romania (2018)
Host State	Greece	148	359	95	164	112
	Hungary	359	443	357	437	382
	Italy	7976	6518	7110	6025	5543
	Portugal	39	80	570	34	54
	Spain	2453	7027	74	379	367

- (1) European Commission (2019), REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE on the application and implementation of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) 1024/2012 on administrative co-operation through the Internal Market Information System ('the IMI Regulation'). {SWD(2019) 337 final}.
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:426:FIN>
- (2) Data from the reports published by the Commission on A1 documents issued in 2015-2018: <https://ec.europa.eu/social/main.jsp?pager.offset=10&catId=471&langId=en&moreDocuments=yes>

care detașează lucrători în teritoriul lor să depună declarații de detașare înainte de începerea detașării⁽¹⁾). Totuși, există suficiente date statistice colectate de la nivelul tuturor statelor membre, bazate pe metodologia comună, comparabilă între statele membre, pentru a permite crearea unei imagini mai exacte a numărului de lucrători detașați.

Cealaltă sursă de date colectate la nivel european sunt datele cu privire la detașare oferite prin Certificatul A1. Trebuie observat că sursele de date din certificatul A1 trebuie să ofere doar o imagine indicativă a fenomenului detașării în cadrul UE, datorită multiplelor restricții ale datelor.

Statistica cu privire la documentele A1 eliberate în ultimii ani de România și statele semnatar este indicată mai jos pentru perioada 2014–2018⁽²⁾:

România ca stat de origine – documente A1 eliberate/an						
		România (2014)	România (2015)	România (2016)	România (2017)	România (2018)
Stat gazdă	Grecia	148	359	95	164	112
	Ungaria	359	443	357	437	382
	Italia	7976	6518	7110	6025	5543
	Portugalia	39	80	570	34	54
	Spania	2453	7027	74	379	367

(1) Comisia Europeană (2019), RAPORTUL COMISIEI PENTRU PARLAMENTUL EUROPEAN, CONSILIU ȘI COMISIA EUROPEANĂ ECONOMICĂ ȘI SOCIALĂ cu privire la aplicarea și implementarea Directivei 2014/67/UE a Parlamentului European și Consiliului din 15 mai 2014 cu privire la aplicarea Directivei 96/71/CE cu privire la detașarea lucrătorilor în cadrul prestării serviciilor și modificarea Regulamentului (UE) 1024/2012 al colaborării administrative prin Sistemul de Informare al Pieței Interne (Regulamentul IMI). {SWD(2019)337 final}.
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:426:FIN>

(2) Datedin rapoartele publicate de Comisie cu privire la documentele A1 eliberate în perioada 2015-2018: <https://ec.europa.eu/social/main.jsp?pager.offset=10&catId=471&langId=en&moreDocuments=yes>

		Sending State – A1 documents issued/year				
		Greece	Hungary	Italy	Portugal	Spain
Romania Host State	Romania (2014)	22	691	819	52	1230
	Romania (2014)	37	496	869	85	1823
	Romania (2014)	151	740	1079	57	1493
	Romania (2014)	152	471	1773	25	1681
	Romania (2014)	132	463	2715	49	1717

Objectives

The key goal was to create a permanent administrative partnership in the fields of labour relations, working conditions, and occupational health and safety.

In order to streamline the flow of information, the agreements contain reference to the creation of a single contact point between the two parties with decision capacity. The contact points were established at the level of RO, EL, ES, HU, IT and PT labour inspectorates.

'Business case' for adopting the agreement from the standpoint of stakeholders

The agreement addresses the following needs:

Workers:	Many citizens work in the Member States concerned as posted or cross border workers
Companies:	A significant number of companies post workers in the Member States concerned.
Unions:	
Employers' organisations:	
Sectoral Funds	
Institutional actors:	Institutions that are parties in the agreement benefit from a strengthening of bilateral cooperation activities, meaning also they improve their ability to inform workers about their rights and obligations.

		Stat de origine–documente A1emise/an				
		Grecia	Ungaria	Italia	Portugalia	Spania
România ca stat gazdă	România (2014)	22	691	819	52	1230
	România (2015)	37	596	869	85	1823
	România (2016)	151	740	1079	57	1493
	România (2017)	152	471	1773	25	1681
	România (2018)	132	463	2715	49	1717

Obiectivele acordurilor

Obiectivul cheie a constat în crearea unui parteneriat administrativ permanent în domeniul relațiilor de muncă, condițiilor de muncă și protecției muncii.

Pentru a eficientiza fluxul de informații, acordurile conțin referire la stabilirea unui punct de contact unic între cele două părți cu capacitate de decizie. Punctele de contact au fost stabilite la nivelul inspectoratelor muncii din RO, EL,ES,HU,ITșiPT.

‘Plan de activitate’ pentru adoptarea acordului din punctul de vedere al părților interesate

Lucrători:	Mulți cetățeni lucrează în statele membre implicate ca detașați sau lucrători transfrontalieri
Companii:	Un număr semnificativ de companii detașează lucrători în statele membre implicate.
Sindicate:	
Organizații ale angajatorilor:	
Fonduri sectoriale:	
Actori instituționali:	Instituțiile care sunt parte la acord beneficiază de o consolidare a activităților bilaterale de colaborare, însemnând că își îmbunătățesc capacitatea de a informa lucrătorii cu privire la drepturile și obligațiile lor.

Main features

The main features of the agreements concern:

- exchange of information between the parties who have signed the agreements: namely the Ministry of Labour and Social Protection of Romania and: the Ministry of Labour and Social Security of Greece; the Italian Labour Inspectorate; the Portuguese Labour Inspectorate; the Spanish Labour and Social Security Inspectorate (ITSS); and the Hungarian Labour Inspectorate;
- in the framework of provision of transnational services: cooperation and granting necessary technical assistance regarding justified requests of information, including in cases of abuse and transnational illegal activities;
- mutual support to verify whether the company which posted workers has sufficient logistic and human resources to carry out its activity and that it carries out an important activity in the home Member State;
- carrying out special control campaigns or elaborating reports on the working conditions of the nationals in the other state, or other aspects of interest;
- exchange of information regarding the companies from the other state operating on its territory. Mutual information regarding accidents at work, the result of the investigations and the measures taken following such accidents.

Process of adoption and role of different involved stakeholders

Regarding the cooperation protocol between the Romanian and Italian Labour Inspectorates the elaboration and conclusion of the protocol was one of the results of the EMPOWER Project⁽³⁾ carried out by: the “Guglielmo Tagliacarne” Institute in Italy; the Ministry

(3) The EMPOWER Project was funded by the EC PROGRESS programme (Call for Proposals VP/2009/015, Pilot Project – Working and Living Conditions of Posted Workers).

Caracteristici principale

Principalele caracteristici ale acordurilor implică:

- schimbul de informații între părțile care au semnat acordurile: și anume Ministerul Muncii și Protecției Sociale din România și: Ministerul Muncii și Asigurării Sociale din Grecia; Inspectoratul Muncii din Italia; Inspectoratul Muncii din Portugalia; Inspectoratul Muncii și Asigurării Sociale din Spania; și Inspectoratul Muncii din Ungaria;
- în cadrul prestării de servicii transnaționale: colaborarea și acordarea de asistență tehnică necesară cu privire la cererile justificate de informații, inclusiv în cazurile de abuz și activități ilegale transnaționale;
- sprijinul reciproc pentru a verifica dacă o companie care a detașat lucrători dispune de suficiente surse logistice și umane pentru a-și desfășura activitatea și care desfășoară o activitate importantă în statul membru de origine;
- organizarea de campanii de control speciale sau elaborarea de rapoarte cu privire la condițiile de lucru ale cetățenilor naționali din alt stat sau alte aspecte de interes;
- schimbul de informații cu privire la companiile din alt stat care operează pe teritoriul său. Informații reciproce cu privire la accidente de muncă, rezultatul investigațiilor și măsurile luate în urma acestor accidente.

Procesul de adoptare și rolul diferiților actori implicați

Referitor la protocolul de colaborare dintre Inspectoratele Muncii din România și Italia, elaborarea și concluzia protocolului a reprezentat unul din rezultatele Proiectului EMPOWER⁽³⁾ organizat de: Institutul

(3) Proiectul EMPOWER Proiecta fost finanțat prin programul EC PROGRESS (Solicitare propuneri VP/2009/015, Proiect Pilot- Condiții de muncă și viață ale lucrătorilor detașați).

of Labour and Social Policies from Italy; the Labour Inspectorate from Romania for a period of 12 months (2009 – 2010)⁽⁴⁾.

In the case of Italy, the signing of the agreement is also a key example of long term cooperation that came about as a direct consequence of the “EMPOWER – Exchange of Experiences and Implementation of Actions for Posted Workers” project.

The Memorandum of Understanding and Cooperation for the Exchange of information and Cooperation between the Romanian Labour Inspectorate and the Spanish ITSS is a framework for permanent administrative cooperation and exchange of information between the signatory parties, negotiated and signed by the two institutions. This Memorandum of Understanding was signed because of the large number of Romanians working in/ being posted to Spain. It aims to equalise working conditions for Romanians and locals.

Similarly, the Memorandum of Understanding between the Labour Inspectorate of Romania and the Authority for Working Conditions of Portugal aims to set up a framework for administrative cooperation, as well as an exchange of information between the parties on law enforcement of the occupational health and safety and labour legislation.

These technical agreements have been negotiated by the signatory institutions. Prior to signing, the agreements were submitted for approval by the Ministry of Foreign Affairs (in the case of Romania).

The Cooperation Agreement between the Romanian Ministry of Labour, Family and Social Protection and the Ministry of Labour and Social Security of the Hellenic Republic was signed by the respective labour ministers. The agreement entered into force on the date of the last notification through diplomatic channels of the completion of the necessary national legal procedures. These legal procedures were necessary for Romania, because the document was approved by the government.

Romania’s government decision required the opinion of the Ministry of Foreign Affairs and of social partners as mandatory steps.

(4) For more information, see:
https://www.inspectiamuncii.ro/web/itm-teleorman/proiecte/-/asset_publisher/bpvOvwn17Oc6/content/proiectul-empower?inheritRedirect=false&redirect=https%3A%2F%2Fwww.inspectiamuncii.ro%2Fweb%2Fitm-teleorman%2Fproiecte%3Fp_p_id%3D101_INSTANCE_bpvOvwn17Oc6%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1.

„GuglielmoTagliacarne” din Italia; Ministerul Muncii și Politicilor Sociale din Italia; Inspekția Muncii din România timp de 12 luni(2009–2010)⁽⁴⁾.

În cazul Italiei, semnarea acordului reprezintă de asemenea un exemplu cheie de colaborare de lungă durată care a constituit o consecință directă a proiectului “EMPOWER – Schimb de experiențe și implementarea acțiunilor pentru detașarea lucrătorilor”.

Memorandumul de înțelegere și colaborare pentru schimbul de informații și colaborare dintre Inspekția Muncii din România și Inspectoratul Muncii și Asigurării Sociale din Spania constituie un cadru de colaborare administrativă permanentă și schimb de informații între părțile semnate, negociat și semnat de cele două instituții. Acest Memorandum de înțelegere s-a semnat datorită numărului mare de români care lucrează în/au fost detașați în Spania. Scopul este de a uniformiza condițiile de muncă ale românilor cu cele ale localnicilor.

Similar, Memorandumul de înțelegere dintre Inspekția Muncii din România și Autoritatea Condițiilor de Muncă din Portugalia a avut drept scop stabilirea unui cadru de colaborare administrativă, precum și schimbul de informații între părți cu privire la aplicarea legii protecției muncii și codului muncii.

Aceste acorduri tehnice au fost negociate de către instituțiile semnate. Înainte de semnare, acordurile au fost transmise spre aprobare Ministerului Afacerilor Externe(în cazul României).

Acordul de colaborare dintre Ministerul Muncii, Familiei și Protecției Sociale din România și Ministerul Muncii și Asigurării Sociale din Republica Elenă s-a semnat de către miniștrii respectivi ai muncii. Acordul a intrat în vigoare la data ultimei notificări prin canalele diplomatice de completare procedurilor legale naționale necesare. Aceste proceduri legale au fost necesare pentru România, deoarece documentul s-a aprobat de către guvern.

Decizia guvernului României a necesitat opinia Ministerului Afacerilor Externe și partenerilor sociali ca etape obligatorii.

(4) Pentru detalii, consultați:

https://www.inspectiamuncii.ro/web/itm-teleorman/proiecte/-/asset_publisher/bpvOvwn17Oc6/content/proiectul-empower?inheritRedirect=false&redirect=https%3A%2F%2Fwww.inspectiamuncii.ro%2Fweb%2Fitm-teleorman%2Fproiecte%3Fp_p_id%3D101_INSTANCE_bpvOvwn17Oc6%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1.

EU level and national level legal aspects smoothing or hampering the agreement

Depending on the national responsibilities of the signing parties, further delays might occur as specific competence might be split between more than one actor at national level. For example, in Ireland the labour relations and OSH are covered by two independent agencies whereas in Romania these fall under the competence of just one agency.

According to the national legislation and practice in Romania, the ministries and public authorities subordinated or under their coordination may conclude protocols or memorandum of understanding with similar institutions from other states, if:

- they have legal attribution to sign such cooperation documents stipulated by their own laws and/or statutes of establishment and functioning, and
- those protocols or memorandum of understanding do not create, amend or extinguish legal or other rights and obligations governed by public international law.

These protocols or memorandum of understanding are negotiated by the signatory institutions, and are subject, prior to signing, to the opinion of the Ministry of Foreign Affairs and shall enter into force on the date of their signing.

If the agreements or protocols signed between the institutions create, modify or extinguish legal or other rights and obligations, governed by public international law, then they fall under the scope of the Law no. 590/2003. This concerns the Treaties, as subsequently amended and supplemented, and have another procedure for negotiation, signing and entry into force.

This law (no. 590/2003) regulates the conditions under which treaties or agreements may be concluded, both at government and department level and establishes all the procedures to be followed from the moment of approval of negotiations until the signing of treaties/agreements.

According to the provisions of this law, the treaties signed at government level as well as the treaties signed at department level are submitted to the government for approval by government decision.

All protocols, memorandum of understanding, and agreements subject to analysis in this project took into account that the exchange of information should be carried out in electronic format, in compliance with the provisions of national legislation on the regime of personal data in force in each signatory state.

In Romania, the legislative provisions on the protection of personal data and on the free movement of such data have been in force since

Aspecte legale la nivelul UE și național prin care se uniformizează sau se limitează contractul

În funcție de responsabilitățile naționale ale părților semnatare, se pot produce întârzieri pentru că se poate împărți competența specifică între mai mulți actori la nivel național. De exemplu, în Irlanda, relațiile laborale și de protecția muncii sunt asigurate de două agenții independente, în timp ce în România intră în competența unei singure agenții.

Conform legislației naționale și practicii din România, ministerele și autoritățile publice subordonate sau sub coordonarea lor pot încheia protocoale sau memorandum de înțelegere cu instituțiile similare din alte state, dacă:

- au atribuția legală de a semna astfel de documente de colaborare prevăzute de propriile legi și/sau statute de constituire și funcționare și
- acele protocoale sau memorandumuri de înțelegere nu crează, modifică sau anulează drepturile legale sau de alt tip și obligațiile guvernate de legea internațională publică.

Aceste protocoale sau memorandumul de înțelegere sunt negociate de instituțiile semnatare și fac obiectul, înainte de semnare, a opiniei Ministerului Afacerilor Externe și vor intra în vigoare la data semnării. În cazul în care acordurile sau protocoalele semnate între instituțiile constituite modifică sau anulează drepturile legale sau de altă natură și obligațiile, guvernate de legea internațională publică, intră sub incidența Legii nr. 590/2003. Aceasta face referire la Tratat, așa cum au fost modificate și completate și prezintă o altă procedură de negociere, semnare și aplicare.

Această lege (nr. 590/2003) reglementează condițiile în care tratatele sau acordurile pot fi încheiate, atât la nivel guvernamental cât și departamental și stabilește toate procedurile de urmat din momentul aprobării negocierilor până la semnarea tratatelor/acordurilor.

Conform dispozițiilor acestei legi, tratatele semnate la nivel guvernamental, precum și tratatele semnate la nivel departamental sunt transmise guvernului spre aprobare prin decizie guvernamentală. Toate protocoalele, memorandumul de înțelegere și acordurile ce fac obiectul analizei în cadrul acestui proiect au avut în vedere faptul că schimbul de informații trebuie efectuat în format electronic, potrivit dispozițiilor legislației naționale cu privire la regimul datelor personale aplicabile în fiecare stat semnatar.

În România, dispozițiile legislative cu privire la protecția datelor personale și libera mișcare a acestor date s-au aplicat începând cu 2001, fiind actualizate și armonizate după aderarea României la

2001, being updated and harmonized after Romania's accession to the European Union with European legislation provisions (Regulation EU/2016/679 - General Data Protection Regulation).

Starting with the launch of the IMI pilot module for the posting of workers in 2011, the Romanian Labour Inspectorate started to use this system for the exchange of information required under the Directive 96/71/EC on the posting of workers. Thus, out of the total of 93 requests for information received by the Labour Inspectorate during 2011, 25 of them were managed through the IMI System⁽⁵⁾.

Since 2012, requests for information on posted workers received from/sent to Italy have been managed through the IMI System, and since 2013 exchanges of information through the IMI System have also covered the requests received from/sent to Hungary, Spain, Portugal and Greece⁽⁶⁾.

With the adoption and entry into force of the Enforcement Directive EU/2014/67, the use of the IMI System became mandatory and all Labour Inspectorates have a legal obligation to respond to any information requests through it from other Member States.

In accordance with Art. 21 of the Directive, Member States may apply bilateral agreements or arrangements on administrative cooperation and mutual assistance between their competent authorities with regard to the application and monitoring of employment clauses and conditions applicable to posted workers referred to in Art. 3 of the Directive 96/71/EC. However, such agreements or arrangements are without prejudice to the rights and obligations of the workers and undertakings concerned.

In the context of the above-mentioned bilateral agreements or arrangements, the competent authorities of the Member States shall use the IMI System as much as possible. If a competent authority in one of the Member States concerned communicates with the IMI System, it shall be used, where possible, for any further action required.

The use of IMI System is straightforward and has the advantage of ensuring all European and national rules are abided by in the protection of personal data.

According to data from Expert Committee on Posting of Workers questionnaire, most Member States (Austria, Belgium, Bulgaria, Czech Republic, Germany, Spain, Finland, Lithuania, Luxembourg,

(5) See: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii> - Activity report of the Labour Inspectorate for 2011.

(6) See: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii> - Activity report of the Labour Inspectorate for the years 2012 and 2013.

Uniunea Europeană cu dispozițiile legislației europene (Regulamentul UE/2016/679 – Regulamentul General privind Protecția Datelor).

De la lansarea modulului pilot IMI pentru detașarea lucrătorilor în 2011, Inspekția Muncii din România a început să utilizeze acest sistem pentru schimbul de informații necesar conform Directivei 96/71/CEcu privire la detașarea lucrătorilor. Astfel, din cele 93 de solicitări de informare primite de Inspekția Muncii în 2011, 25 au fost gestionate prin Sistemul IMI⁽⁵⁾.

Din 2012, cererile de informare cu privire la lucrătorii detașați primite de la/trimise către Italia au fost gestionate prin Sistemul IMI, iar din 2013, schimburile de informații prin Sistemul IMI au fost de asemenea acoperite de cererile primite de la/trimise către Ungaria, Spania, Portugalia și Grecia⁽⁶⁾.

Prin adoptarea și intrarea în vigoare a Directivei de aplicare UE/2014/67, utilizarea Sistemului IMI a devenit obligatorie, iar toate Inspectoratele Muncii au obligația legală să răspundă oricăror solicitări de informații prin acest sistem din alte state membre.

Conform Art. 21 din Directivă, statele membre pot aplica acorduri bilaterale sau aranjamente cu privire la colaborarea administrativă și asistența reciprocă dintre autoritățile competente cu privire la aplicarea și monitorizarea clauzelor și condițiilor de angajare aplicabile lucrătorilor detașați conform Art. 3 din Directiva 96/71/CE. Însă, aceste acorduri sau aranjamente nu afectează drepturile și obligațiile lucrătorilor și angajamentele respective.

În contextul acordurilor bilaterale sau aranjamentelor mai sus menționate, autoritățile competente ale statelor membre vor utiliza Sistemul IMI cât de mult posibil. Dacă o autoritate competentă dintr-un stat membru implicat comunică cu Sistemul IMI, trebuie utilizat, în măsura posibilului, pentru orice alte acțiuni ulterioare solicitate. Folosirea Sistemului IMI este simplă și prezintă avantajul asigurării respectării tuturor regulilor europene și naționale prin protecția datelor personale.

Conform datelor din chestionarul Comitetului de experți în domeniul detașării, majoritatea statelor membre (Austria, Belgia, Bulgaria, Republica Cehă, Germania, Spania, Finlanda, Lituania, Luxemburg, Polonia, Portugalia, România, Slovacia, Estonia, Danemarca, Croația, Franța, Olanda) au implementat acorduri bilaterale sau declarații

(5) A se vedea: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii>-Raportul de activitate al Inspekției Muncii pe anul 2011.

(6) A se vedea: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii>-Raportul de activitate al Inspekției Muncii pe anii 2012 și 2013.

Poland, Portugal, Romania, Slovakia, Estonia, Denmark, Croatia, France, the Netherlands) have bilateral agreements or joint statements in force with other Member States covering the posting of workers and administrative cooperation between different authorities. Many of these Member States report that they use these agreements instead of, or in addition to, the IMI System.

However, there are also many Member States (Czech Republic, Germany, Hungary, Ireland, Italy, Lithuania, Latvia, Malta, Portugal, Sweden, Slovakia, Cyprus and the Netherlands) which only communicate through the IMI System for administrative cooperation because of its convenience in the absence of applicable bilateral agreements⁽⁷⁾.

Romania also uses the exchange of information through the IMI System with all Member States regardless of the existence of the bilateral cooperation agreements. As an example, in 2019⁽⁸⁾ most IMI requests for information were sent by: Austria (242), Belgium (103), France (52), and Italy (49).

During the same period, the liaison office within the Labour Inspectorate sent 34 requests for information (IMI) to the respective offices in Italy, France, Germany, the Netherlands, Hungary, Bulgaria, Sweden, Belgium etc. on the secondment of employees for transnational services.

Actions implemented to address hampers

Prioritization of specific agreements should mitigate delays. Prioritization should be an objective process and take into account the size of the diaspora and the number of postings. Once the analysis is completed by the competent parties, the negotiation party should ask the subordinate agencies to act with due diligence. This is difficult when the agreement is signed at Government level and a large number of actors (Ministries and agencies) have to be involved.

Outcomes of the agreement

The signing parties use the IMI System for the exchange of secure information in case of the agreements signed by the Romanian Labour Inspectorate with Labour Inspectorate from IT, ES, and EL.

(7) See: European Commission (2019), op. cit.

(8) See: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii> - Activity report of the Labour Inspectorate for 2019.

comune cu alte state membre în domeniul detașării lucrătorilor și colaborării administrative dintre diferite autorități. Multe din aceste state membre declară că folosesc aceste acorduri în locul sau ca o completare a Sistemului IMI.

Însă, există și multe state membre (Republica Cehă, Germania, Ungaria, Irlanda, Italia, Lituania, Letonia, Malta, Portugalia, Suedia, Slovacia, Cipru și Olanda) care comunică doar prin Sistemul IMI pentru colaborare administrativă deoarece este convenabil, în absența acordurilor bilaterale⁽⁷⁾.

România folosește de asemenea schimbul de informații prin Sistemul IMI cu toate statele membre indiferent de existența sau nu a acordurilor bilaterale de colaborare. De exemplu, în 2019⁽⁸⁾ majoritatea cererilor IMI de informare s-au transmis de către: Austria(242), Belgia(103), Franța(52), și Italia(49).

În aceeași perioadă, biroul de relații din cadrul Inspecției Muncii a transmis 34 de solicitări de informare (IMI) birourilor omoloage din Italia, Franța, Germania, Olanda, Ungaria, Bulgaria, Suedia, Belgia etc. cu privire la detașarea angajaților pentru servicii transnaționale.

Acțiuni implementate pentru a aborda restricțiile

Prioritizarea acordurilor specifice trebuie să reducă întârzierile. Prioritizarea trebuie să fie un proces obiectiv și să aibă în vedere dimensiunea diasporei și numărul detașărilor. După finalizarea analizei de către părțile competente, negociatorul trebuie să solicite agențiilor subordonate să acționeze cu diligență. Acest lucru este dificil când acordul este semnat la nivel guvernamental și este implicat un număr mare de actori (Ministere și agenții).

Rezultatele acordului

Părțile semnatare folosesc Sistemul IMI pentru schimbul de informații sigur în cazul acordurilor semnate de Inspectoratul Muncii din România și Inspectoratul Muncii din IT, ES, și EL.

În cazul colaborării cu HU și PT, folosirea Sistemului IMI s-a combinat cu sistemele convenționale pentru schimbul de informații sigure.

(7) A se vedea: Comisia Europeană(2019), op.cit.

(8) A se vedea: [https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii-Raportul de activitate al inspectiei muncii pe anul 2019](https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii-Raportul%20de%20activitate%20al%20inspectiei%20muncii%20pe%20anul%202019)

In the cases of cooperation with HU and PT, the use of the IMI System was combined with the conventional systems for exchange of secure information.

Since January 2016, the volume of information exchange was of 310 IMI requests received by the Romanian Labour Inspectorate from a range of institutions from the signatory states of the agreements subject to analysis⁽⁹⁾:

- Greece - 3 requests;
- Hungary - 4 requests;
- Italy - 283 requests;
- Spain - 20 requests.

Since January 2016, the Romanian Labour Inspectorate sent through IMI System 92 requests of information to:

- Hungary - 8 requests;
- Italy - 79 requests;
- Spain - 5 requests.

The need to respond within a clear time frame set by Directive 2014/67/EU as well as the categories of information requested led to increased targeting inspections in order to check the compliance with the law, and improved ability of the inspectors to identify abuses or irregularities in case of posting of workers.

Regarding other activities carried out on the basis of the Memorandum of Cooperation with Spain, within the exchange of good practices, the Labour Inspectorate organized a workshop to present the Spanish approach to inspection activities.

The key outcome of the EMPOWER project was the conclusion of a Collaboration Protocol between the Labour Inspectorate from Romania and General Directorate for Coordination of Inspection Activities within the Ministry of Labour and Social Policies from Italy. Activities developed within the framework of the Protocol include the elaboration of a guide for labour inspectors and employers: *Vademecum - Posting of workers in the European Union* and the organisation of national workshops for the labour inspectors in Bucharest, Iași and Timișoara.

(9) Data communicated by Labour Inspectorate, resulted from the interrogation of IMI Platform.

Din ianuarie 2016, volumul schimbului de informații a fost de 310 solicitări IMI primite de Inspectoratul Muncii din România din mai multe instituții din statele semnatare ale acordurilor ce fac obiectul analizei⁽⁹⁾:

- Grecia–3 solicitări;
- Ungaria–4 solicitări;
- Italia–283 solicitări;
- Spania 20 solicitări.

Din ianuarie 2016, Inspectoratul Muncii din România a transmis prin Sistemul IMI 92 solicitări de informare către:

- Ungaria–8 solicitări;
- Italia–79 solicitări;
- Spania–5 solicitări.

Necesitatea unui răspuns într-un anumit termen prevăzut de Directiva 2014/67/UE precum și categoriile de informații solicitate au atras majorarea numărului inspecțiilor pentru a verifica respectarea legii și capacitatea îmbunătățită a inspectorilor de a identifica abuzurile sau neregulile în cazul detașării lucrătorilor.

Referitor la alte activități desfășurate în baza Memorandumului de colaborare cu Spania, din cadrul schimbului de bune practici, Inspectoratul Muncii a organizat un atelier pentru a prezenta abordarea spaniolă a activităților de inspecție.

Rezultatul cheie al proiectului EMPOWER a fost concluzia unui Protocol de Colaborare dintre Inspectoratul Muncii din România și Directoratul General de Coordonare a Activităților de Inspecție din cadrul Ministerului Muncii și Politicilor Sociale din Italia.

Activitățile desfășurate în cadrul Protocolului includ elaborarea unui ghid pentru inspectorii muncii și angajatori: *Vademecum–Detașarea lucrătorilor în Uniunea Europeană* și organizarea de ateliere naționale pentru inspectorii muncii în București, Iași și Timișoara.

(9) A se vedea:
<https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii-Raportul-de-activitate-al-inspectiei-muncii-pe-anul-2019>

About

The objectives of the ISA Project are to promote and reinforce transnational cooperation between authorities and stakeholders involved in the posting of workers in the construction sector, by promoting the establishment of information sharing agreements meant to monitor and ease the posting of workers.

The project will build on practices in place between sectoral funds in Italy, in Germany, Austria and France, where sectoral funds, backed by the governments, negotiated and successfully concluded agreements simplifying procedures necessary to post workers abroad, while making sure employers posting workers abroad are in compliance with the payment of due wage elements (like the holiday pay), and easily allowing to check relevant information in the sending country if the need arises.

www.isaproject.eu

The project is carried out with the financial support of the European Commission.

The opinions hereby expressed reflect only the authors' view.

The European Commission is not responsible for any use that can be made of the information contained therein.

Despre

Obiectivele proiectului ISA sunt promovarea și consolidarea cooperării transnaționale între autoritățile și părțile interesate implicate în detașarea lucrătorilor din sectorul construcțiilor, prin promovarea stabilirii unor acorduri privind schimbul de informații menite să monitorizeze și să faciliteze detașarea lucrătorilor.

Proiectul se va baza pe practicile existente între fondurile sectoriale din Italia, Germania, Austria și Franța, unde fondurile sectoriale, susținute de guverne, au negociat și au încheiat cu succes acorduri care simplifică procedurile necesare pentru detașarea lucrătorilor în străinătate, asigurându-se în același timp că angajatorii care detașează lucrători în străinătate respectă plata elementelor salariale datorate (precum concediul plătit) și permițând cu ușurință verificarea informațiilor relevante în țara care inițiază detașarea, dacă este necesar.

www.isaproject.eu

Proiectul este desfășurat cu sprijinul financiar al Comisiei Europene.

Opiniile exprimate în prezentă reflectă doar viziunea autorilor.

Comisia Europeană nu este responsabilă de utilizarea informațiilor cuprinse în acest document.

A series of horizontal lines for writing, consisting of 25 evenly spaced lines extending across the width of the page.



- (ENG)** This report was produced for the ISA project, which received funding under the Call for proposals VP/2018/011 of the DG Employment, Social Affairs and Inclusion of the European Commission. The opinions hereby expressed reflect only the authors' view. The European Commission is not responsible for any use that can be made of the information contained therein.
- (IT)** Questo rapporto è stato prodotto per il progetto ISA, finanziato tramite l'invito a presentare proposte VP/2018/011 della DG Occupazione, Affari sociali e Inclusione della Commissione Europea. Le opinioni qui espresse riflettono unicamente il punto di vista degli autori. La Commissione Europea non è responsabile in alcun modo per l'uso che può essere fatto delle informazioni contenute in questo rapporto.
- (BG)** Проектът се осъществява с финансиране от Европейската комисия. Мненията на авторите отразяват само тяхната гледна точка. Европейският съюз не носи отговорност за начина, по който се използва съдържащата се в нея информация.
- (ES)** Este informe se ha realizado para el proyecto ISA, que ha recibido financiación en el marco de la convocatoria de propuestas VP/2018/011 de la Dirección General de Empleo, Asuntos Sociales e Inclusión de la Comisión Europea. Las opiniones aquí expresadas reflejan únicamente la opinión de los autores. La Comisión Europea no es responsable del uso que pueda hacerse de la información contenida en él.
- (FR)** Ce rapport a été produit pour le projet ISA, qui bénéficie d'un financement dans le cadre de l'appel à propositions VP/2018/011 de la Direction générale de l'emploi, des affaires sociales et de l'inclusion de la Commission Européenne. Les opinions exprimées dans ce rapport n'engagent que leurs auteurs. La Commission Européenne ne peut être tenue pour responsable de l'usage qui pourrait être fait des informations qui y sont contenues.
- (PL)** Niniejszy raport powstał na potrzeby projektu ISA, który otrzymał dofinansowanie w ramach zaproszenia do składania wniosków VP / 2018/011 DG ds. Zatrudnienia, Spraw Społecznych i Włączenia Społecznego Komisji Europejskiej. Wyrażone opinie odzwierciedlają jedynie poglądy autorów. Komisja Europejska nie ponosi odpowiedzialności za jakiegokolwiek wykorzystanie informacji w nim zawartych.
- (PT)** O projeto foi realizado para o projeto ISA, tendo recebido o apoio financeiro no âmbito do concurso VP/2018/011 da DG com o apoio da DG Emprego, Assuntos Sociais e Inclusão da Comissão Europeia. As opiniões expressas refletem apenas a visão dos autores. A Comissão Europeia não é responsável por qualquer uso que possa ser feito das informações aqui contidas.
- (RO)** Acest raport a fost elaborat pentru proiectul ISA, care a primit finanțare în cadrul cererii de propuneri VP / 2018/011 a DG Ocuparea forței de muncă, afaceri sociale și incluziune a Comisiei Europene. Opiniile exprimate în acest raport reflectă doar punctul de vedere al autorilor. Comisia Europeană nu răspunde de modul în care ar putea fi utilizate informațiile cuprinse în acest raport.



Call for proposals: EaSI-Progress - Grant procedure no VP/2018/011
 “Posting of workers: Enhancing administrative cooperation and access to information”
 European Project: VS/2018/0458 “ISA – Information Sharing Agreements. Building EU agreements for the posting of workers in the construction sector”

ISA CONSORTIUM



Project coordinator (Italy)
www.cnce.it



(Poland)
<http://zzbudowlani.pl/>



КАМАРА НА СТРОИТЕЛИТЕ В БЪЛГАРИЯ
BULGARIAN CONSTRUCTION CHAMBER

(Bulgaria)
<https://ksb.bg/>



Instituto Universitário de Lisboa



(Portugal)
<https://www.iscte-iul.pt/>



Association Européenne des Institutions Paritaires
European Association of Paritarian Institutions

(Belgium)
<https://aeip.net/>



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<http://mmuncii.ro/>



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