



European Labour Authority evaluation and future priorities

6 May 2024

Introduction

This note sets out BusinessEurope's assessment of the work of the European Labour Authority to date and the priorities for the years ahead. This is prepared in the context of the ongoing evaluation of the agency 5 years since its establishment in 2019.

As a relatively new EU agency, ELA is progressively establishing itself as the hub of mobility related information and activities in the EU. While ELA has been in existence for around 5 years, it has only truly been operational for around half of this time. In this context the agency has contributed to making strides forward in ways that will improve information provision to employers and workers, both in the context of freedom of movement as well as posting; developing cooperation between Member States and in facilitating the voluntary conduct of concerted and joint inspections and mediation, where necessary. The analytical work that ELA is undertaking, and which has fed into several sector-specific campaigns around seasonal work and the transport and construction sectors, has also generally been well received by the sectors concerned. However, in the past few years ELA has targeted sectors that it considers to be particularly susceptible to the risk of undeclared work. For future endeavours the goal must be to create added value for all sectors, especially in the field of provision of information.

BusinessEurope's overarching assessment is that ELA can make further strides forward in its stated aim of supporting fair and effective mobility within its current mandate. Therefore, it would be **premature for the new Commission entering office in autumn 2024 to initiate a revision of ELA's founding regulation**. The focus should be on maximising the potential of the existing mandate, especially now that ELA is more or less fully staffed, rather than negotiating a new mandate.

BusinessEurope recommendations for ELA's future work

- ELA should finalise the creation of the planned **web tool on labour mobility information** that aims to constitute a single AI-driven entry point to all relevant mobility related information sources at EU and national level, via links to appropriate national websites, including the national posting websites;
- Complementing the web tool, ELA should **establish an on-demand helpdesk** function, taking into account the information gathered from the upcoming feasibility study. This helpdesk should provide on-demand, practical and individualised help and guidance to employers seeking to hire mobile workers and workers looking to find a job in another Member State;
- Complementing existing activities around the role of technology and digitalisation as ways to foster information provision and mobility, ELA should further strengthen its focus on **the role of digitalisation in fostering the coordination of social security**, including through the exchange of experiences and practices between Member States and social partners, taking into account the ongoing initiatives around EESSI and ESSPASS; ELA should also promote the full digitalisation of the application, issuance and control process of the PDA1.

- ELA, in cooperation with Cedefop and the European Commission, as appropriate, and in respect of their competences, could play a more prominent role in the collection and sharing of information and practices on the **recognition of qualifications related to regulated and non-regulated professions** in the EU from the perspective of fostering mobility and cross-border job matching. This should lead to the orientation of facilitated recognition processes, while respecting national competences.
- ELA should further its **capacity building support for social partners**, building previous pilot exercises and the dedicated social partner workshop organised in February 2024. Capacity building is a mutual interest for social partners and joint activities with employers and trade unions should continue to be organised. At the same time, there should also be scope for dedicated employer and trade union only capacity building activities, addressing the specific needs and interests of national and sectoral employers on mobility related topics.

Specific areas of attention

Information provision

BusinessEurope considers improving information provision to employers and mobile workers to be ELA's main task and one from which genuine EU added value can be derived. ELA's information provision tasks are covered by Article 5 of the Founding Regulation: "Information on labour mobility." BusinessEurope's assessment is that there is scope within this article, within a broad sense, to further expand ELA's work on a number of employer priorities related to information provision.

Our main priority for ELA in this regard is the establishment of a **helpdesk function**. This service should provide practical, clear and coherent advice and guidance on applicable EU law and where to find further information on applicable national rules, as provided by competent national authorities and social partners to mobile workers and employers. Such a website should be staffed within the ELA information unit, drawing on EURES resources, as appropriate. Such a helpdesk would make a valuable contribution to ELA's information task as concerns improving the availability, quality and accessibility of information of a general nature offered to individuals, employers and social partner organisations.

The aim is to provide a new on-demand support service, within reasonable working hours, via a phone number and not just static webpages. BusinessEurope welcomes ELA's commitment to launch a feasibility study towards setting up a helpdesk and suggests looking into pre-existing helpdesks¹ to come up with a proposal that is cost effective and well targeted to respond to the needs of employers and mobile workers, as well as social partner organisations across Europe.

Closely aligned with ELA's information task, is its role in fostering the collection of information and knowledge on the use of more **technology-oriented approaches and digitalised processes towards cross-border mobility and cooperation**. Particular priorities for BusinessEurope in this regard concern access to information for employers and workers on the applicable rules and regulations and as concerns social security coordination. In this respect, BusinessEurope supports further efforts by ELA to step up its activities to foster cooperation between Member States as concerns the use of the Electronic Exchange of Social

¹ For examples: [The ILO Helpdesk for Business on International Labour Standards](#): the ILO's one-stop shop for company managers and workers on how to better align business operations with international labour standards and build good industrial relations; the EFRAG European Sustainability Reporting Standards Q&A platform aims to collect and answer technical questions that remain unresolved after thorough analysis by stakeholders.

Security Information (EESSI) system. ELA should also explore, in consultation with the European Commission, what role it can play in the further development of ESSPASS, taking into account the ongoing pilot.

A further aspect of social security coordination that could benefit from ELA's expertise is the gathering of data about the issuing of PDA1 forms by national authorities. This would help to shed light on the approaches taken at national level towards the issuing of these forms and under what circumstances, contributing to evidence-based policy making. Ultimately, BusinessEurope aims for clarification on when these forms need to be issued as part of prior notification and, in particular, to have an exemption from the need for prior notification in the case of business trips and short-term postings, as has been a core element of the discussions around the revision of Regulation 883/04 on the coordination of social security. This example also reflects a broader need for ELA to develop common or compatible data collection criteria so as to ensure the comparability, transferability and usefulness of national data that is relevant to the area of labour mobility.

In the area of posting related information, it is important that ELA continues its work on the **peer review of national posting websites** and, equally, that there is further follow-up and evaluation to assess if identified areas for improvement in national websites have been made. Furthermore, BusinessEurope welcomes the Commission's intention to take forward the work on the posting **eDeclaration**. While BusinessEurope would like to see all Member States utilise this approach, ELA can play an important role in exchanges of practice and awareness raising, further facilitating cooperation and take-up of this initiative. In a similar vein, we consider the notion of a **remuneration calculator**, which is linked to the national posting websites, to a good initiative and one that ELA could usefully be in the lead of, in coordination with the European Commission.

ELA's role as a **mediator** between the Member States and the respective competent authorities can be helpful on a voluntary, informal, advisory and, if explicitly requested by the Member States, coordinating basis. **Regarding problem-solving in cases of posting and to create clarity**, there could be scope for further cooperation with SOLVIT in the different Member States and within the current mandate. However, in order to avoid a conflict of interest, ELA cannot be allowed to impose the initiation of a mediation procedure on Member States since the authority itself is assigned the role of mediator.

The **recognition of qualifications** within the EU is an important issue in different contexts and one that requires additional focus in the coming years. Procedures for the recognition of non-regulated academic qualifications within the EU are governed nationally with waiting times, costs and procedures varying and with recognition in one Member State not automatically ensuring recognition in another. The recognition of regulated professions is governed through the Professional Qualifications Directive, but is also heavily dependent on varying national approaches to those professions that are regulated and those that are not.

In the case of non-regulated professions within the EU, BusinessEurope supports a trust-based approach with formal recognition undertaken only if there is a specific need. When formal recognition is undertaken, it is essential that Member States act on this in a way that does not create unnecessary burdens on employers at national level or in ways hindering labour mobility due to unrealistic national bureaucratic requirements for EU nationals coming from another EU Member State. The general process of recognition of professional qualifications under the professional qualifications directive includes the possibility that an individual may need to complete a traineeship or aptitude test before their qualification is recognised. It is important that such approaches do not create excessive burdens on potential mobile workers and on employers. Better information around, and exchanging of practices on, the recognition of qualifications for regulated and non-regulated professions is a further area that ELA could usefully explore.

Inspections

Concerted and joint inspections are an area of ELA's that make the agency more operational in its mandate and output when compared to other agencies under DG Employment. Around 100 inspections have been conducted since ELA developed a common methodology and supportive framework for facilitating the work of national authorities in the conduct of inspections. BusinessEurope's view from the beginning is that the undertaking of inspections should not be about chasing targets about how many inspections are to be undertaken and that this is used as a way of assessing how effective and successful ELA has been. Instead, inspections should be carried out when there is a genuine need for doing so and with the agreement of the Member States concerned. This should continue to be the guiding logic.

Labour mobility analysis and risk assessments should help ELA and the Member States to better target inspections and develop preventive actions. To ensure that ELA meets the needs of workers and employers, data collection and the development of key performance indicators should be characterised by a strong focus on not only quantitative but also qualitative indicators.

BusinessEurope is of the view that **Member States have to retain the possibility of not taking part in inspections, providing, as required in the founding regulation, the necessary justification**. It follows, that Member States also need to give their consent before ELA is able to initiate inspections, if such provisions would become available in the future.

Potential scope for ELA's activities in the context of third country migration

BusinessEurope welcomes the proposal to establish an EU Talent Pool, as per the European Commission's Skills and Talent Package of November 2023. The proposed regulation establishing an EU Talent Pool, outlines the role of an EU secretariat, provided by the European Commission, for the overall management and coordination of the Talent Pool.

It would be important that the Talent Pool Secretariat liaises with ELA, and vice-versa, as concerns ELA's information provision tasks, including the provision of information on the applicable rights and working conditions in the Member States as well as data that can feed into the job matching process, building on ELA's experience of managing a similar process through the EURES portal. It remains crucial to avoid costly duplication as well as overlaps with other organisations and to create synergies. Therefore, synergies between ELA and the Talent Pool secretariat should be explored. Ultimately, looking beyond the initial start-up phase of the Talent Pool, an assessment should be made on the relevance of transferring the Talent Pool secretariat to ELA, taking into account the nature and competences of ELA in the years to come.
