

# ISA

ISA - Information  
Sharing Agreements.  
Building Eu agreements  
for the posting  
of workers in the  
construction sector  
VS/2018/0458



# 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)**

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## 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 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.

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

<b>Workers:</b>	<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>
<b>Companies:</b>	<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>
<b>Unions:</b>	<p>Labour inspections that effectively tackle unfair competition and undeclared work act as a guarantee for companies and their representing business organizations.</p>
<b>Employers’ organisations:</b>	<p>Labour inspections that effectively tackle unfair competition and undeclared work act as a guarantee for companies and their representing business organizations.</p>
<b>Public institutions:</b>	<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 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.

## **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 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.

## 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](http://www.isaproject.eu)



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