

ISA

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



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

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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.

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.

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

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|----------------------------------|---|
| 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.

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.

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.
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 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>.

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



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