

## **CEEP POSITION PAPER ON A FUTURE EUROPEAN LABOUR AUTHORITY**

### **Introduction**

The creation of the European Labour Authority should strengthen cooperation between labour market authorities at all levels and lead to the better management of cross-border situations, as well as to further initiatives in support of fair mobility, and proper coordination of European Social Security schemes.

CEEP wishes for three principles to be respected by the future ELA:

- The Principle of subsidiarity and member states' own authorities must be respected.
- ELA must leave space for the different labour market models and priorities Member States may have. It is crucial that a European labour authority does not touch on the autonomy of the social partners and the key role that they play.
- The ELA should not have any supra-national competences. It should concern itself with improving the enforcement of existing rules, facilitating intra-EU mobility and promote mutual learning between National authorities.

### **Diversity of inspection services in Europe and added value for a new EU labour authority**

- Competences to decide on and control compliance with the regulatory framework of pay and working conditions stem from and are related to principles and rights enshrined in national legislation (in the labour, social security and fiscal domains). These competences are also related to provisions in agreements resulting from collective bargaining.
- Across the European Union, there is a wide range of national practices in the area of control and enforcement of labour market rules. Therefore, it is not easy to describe a common denominator of these institutions. The responsible and competent national organisations in the Member States encompass different types of labour inspectorate and other compliance and enforcement institutions. Several Member States have established arbitration offices, labour courts or other specialised entities that can intervene in industrial disputes and conflicts. There are margins of improvements on the cooperation between the established national authorities.

It is also true that greater cooperation between national authorities and better information for employers and workers on cross-border mobility are important objectives. However, the EU Commission's statement that the national authorities are, by default, insufficient is to be rejected.

- The budget of the agency (50 million euros), as foreseen in the ELA regulation proposal, is significantly higher than the one of the other EU existing four agencies with EU employment and social purposes. The EU Commission should better explain the where the added value of this newly created EU agency lies. The justification given so far does not conclusively state the needs or the specific functions of ELA. It is to be feared that, initially, this new EU authority will be created without clear initial responsibilities, and in the future the authority will seek to increase artificially its responsibilities.

### Cooperation with existing structures

- The EC should try to streamline and improve cooperation between existing structures. We support that the EC also encourages Member States to make good use of the existing tools, including those recently established (e.g. IMI system for the posting of workers, EESSI – Electronic Exchange of Social Security Information).
- It would be important to clarify that the Authority should not need to design new mobility schemes as suggested in the proposal, but rather to promote those that already exist, such as the ones developed by EURES for which the ELA should take over the management.
- The ELA will replace the Technical Committee on the Free Movement of Workers, the Committee of Experts on Posting of Workers, the Technical Commission, the Audit Board, and the Conciliation Board of the Administrative Commission for the Coordination of Social Security Systems, the European Platform on tackling undeclared work. Many of these bodies include the European Social Partners in a way or the other. CEEP believes that the ELA should find means to allow for Social Partners participation and input to compensate for this change.
- The Commission gave the SLIC (Senior Labour Inspectorate Committee) a formal status in 1995 (95/319/EC) with a mandate to give its opinion to the Commission, either at the Commission's request or on its own initiative, on all problems related to the enforcement by the member states of Community law on health and safety at work. In principle, this means that SLIC has the task of formulating common principles of labour inspection, restricted to the field of health and safety at work. Over time, some SLIC activities have been extended to, for instance, the broader analysis of working conditions for posted workers. CEEP believes that this committee should also be involved within the future ELA.

### **Reinforcement of the information available for Intra-EU mobility (Article 6)**

- CEEP supports in general the objectives and actions of Article 6.
- CEEP believes that increased cooperation, and sharing of information, among Member States in combating undeclared work can offer significant European added value. This would underpin EU legal initiatives on undeclared employment in a useful way and allow for better promoting of the exchange of best practices and improving coordination between labour inspectorates from different countries.
- The Commission already identified the need to improve information on labour mobility flows between EU Member States. The Commission produces an annual compendium of relevant data sources available within Member States. In 2016, almost all countries reported that they collect data in a centralised way on EU non-national citizens who are either employed or who are registered jobseekers. Some PES collect data describing the individual “profile” of EU workers. However, it has proved difficult to use such data due to the lack of comparability between Member States.
- The European Labour Authority could become a one stop shop for sharing information, which would streamline the information already available under other portals such as EURES and give better overview on issues of labour mobility and social security in cross border contexts.
- The ELA should make more use of easily available data in Member States in order to provide a better indication of areas of discrimination and how these vary between Member States. Such information will enable actions to address discrimination to be better targeted.

### **Coordination and support of Joint inspections (Article 9)**

- Concerted action by the compliance and enforcement authorities is a key factor in the fight against fraudulent practices involving cross-border labour. Effective and comprehensive inspection initiatives must be ensured. The social partners (and related industry-wide institutions) can be seen as essential stakeholders in this overall policy approach.
- Labour inspection at the national level can only be effective if the relevant national authorities are properly funded and have enough staff. It is concerning that in some Member States there is a lack of properly trained staff in particular on Europe-wide issues. CEEP supports the objective to reinforce Member’s States inspection systems as this should be an essential part of national plans to respond to the economic crisis as well as supporting sound mobility developments throughout Europe. The ELA could have an added value in training on demand from the Member states national labour inspectorate staff on European issues.

- Labour inspections play a vital role by verifying that legislation in force is fully implemented as well as by ensuring that especially vulnerable workers are covered and protected.
- It must remain clear that the Labour Inspections are in the hands of Member States and in some of them, in the hands of National Social Partners. Any cross-border inspection coordinated by the Labour Authority should respect this principle. It is important to maintain the possibility for Member States not wishing to take part in a joint inspection to be left out of it.
- It seems odd that the ELA could have the possibility by itself to propose a joint inspection without any request from the Member States. This seems to be beyond its prerogative

### Technical Assistance and Capacity Building (Article 12)

- Technical assistance and capacity building for national enforcement bodies in countries which need to improve their employment law enforcement systems is an interesting task for the authority.
- Investing in capacities of national enforcement bodies will help to tackle fraud and abuse and build cooperation among institutions also in the context of cross-border mobility.
- The new ELA should take into account the already made improvements in administrative cooperation and coordination foreseen in the revision of the regulation on coordination of social security as well as the enforcement directive on the posting of workers.
- In the article 12 of the ELA regulation we support peer-to-peer and staff exchanges, identification and dissemination of good practices and the promotion of awareness raising campaigns to the benefit of enterprises and individuals.
- CEEP is concerned about the perspective (in article 12a of the regulation) to “develop guidelines for use by Member States, **including guidance for inspections in cases with a cross-border dimension, as well as shared definitions and common concepts**, building on relevant work at the Union level”. This seems to interfere with the subsidiarity principle from the onset and the diversity of labour inspections at the national level.

### Mediation between Member States and dispute resolution (Article 13)

- We do not see the urgent need for creating any new structure for dispute resolution between Member States. SOLVIT already is a service provided by the national administration in each EU country and in Iceland, Liechtenstein and Norway aiming at a similar objective.
- However, should Mediation be maintained as a key task of the ELA it should remain at the sole request from Member States and act as a discussion board for the parties to meet and come to an understanding.