

STEP UP PROTECTION – STEPPING UP THE EUROPEAN COOPERATION AND COMMUNICATION AMONG PUBLIC & PRIVATE ORGANIZATIONS FOR THE PROTECTION OF POSTED WORKERS' RIGHTS

1^o INTERMEDIATE MEETING

5 FEBRUARY 2021



THIS CONFERENCE HAS RECEIVED FINANCIAL SUPPORT FROM THE EUROPEAN UNION PROGRAMME FOR EMPLOYMENT AND SOCIAL INNOVATION "EASI" (2014-2020).

**WP3 – MAPPING AND ANALYSIS OF
CONTEXTS IN RELATION TO THE PRACTICAL
CASES WHERE THE LEGISLATION IS NOT
APPLIED**

(DIRECTIVES 96/71/EC; 2014/67/EU; 2018/957/EU)

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STRATEGIC OBJECTIVES

1. Analyse the most widespread violations of the EU framework, in relation to the current legislation
2. Analyse the framework related to the transposition of directive 2018/957/EU in different cultural and geographical contexts
3. Identify mechanisms of transnational collaboration among different public entities, also in the light of the future activity that will be run by the European Labour Authority.
4. Analyse which is the total impact, and which are the potential consequences of transgression phenomena, with the final aim of increasing the effectiveness of the European framework

WP3 SPECIFIC OBJECTIVES (1st PART)

1. Analyse in each partner country the current framework about transnational posting
2. Analyse in each partner country the national practices about inspections targeting transnational posting assumptions
3. Identify and analyse the transnational cooperation instruments already adopted among national inspective bodies and used by partner countries
4. Analyse the IMI related to the posting of workers and evaluate the practical usage experiences by the national inspective bodies
5. Identify the most widespread assumptions of violation of the European framework about transnational posting

WP3 SPECIFIC OBJECTIVES (2nd PART)

6. Evaluate the role that national framework pre-implementation of Directive 2018/957/EU, the practices of the national inspective bodies, and the transnational cooperation instruments among inspective bodies have played on the effectiveness/non-effectiveness of the European framework in the mechanical industry of each partner country: identification of both problems and best practices
7. Analyse in each partner country the framework related to the transposition of the Directive 2018/957/EU and, in view of what emerged from the previous analysis, evaluate its consistency in relation to the objective of increasing the effectiveness of the European framework about posting
8. Analyse the functions of the European Labour Authority and, in view of what emerged from the empirical recognition of concrete cases of violation, evaluate its real potential in terms of increased cooperation among national inspective bodies
9. Identify, in view of what emerged from the previous research activity, the possible adaptation/improvement actions of the framework, of national practices, and of transnational cooperation instruments aimed at increasing transnational cooperation and therefore the effectiveness of the European framework

ACTIVITIES AND OUTPUTS

1. Recognition of the national legislative contexts (before the implementation of directive 2018/957/EU)

- National reports on the current national framework
- Transnational report about the current national framework in the countries involved

ACTIVITIES AND OUTPUTS

2. Recognition of the practices and transnational cooperation instruments used by national inspective bodies, placing special emphasis on the role usage experience of the Internal Market Information System (IMI)

- Application of a questionnaire to national Labour Authorities offices
- National reports on the practices followed by Labour Authorities and on the transnational cooperation instruments used by them

ACTIVITIES AND OUTPUTS

3. Mapping of the most widespread violations of the European framework about transnational posting within the mechanical industry

- National mapping of the most widespread assumptions of violation of the European framework on transnational posting in the mechanical industry
- Consolidated map regarding the most widespread assumptions of violation of the European framework on transnational posting in the mechanical industry

PANDEMIC



**OVERLOADED
LABOUR AUTHORITIES**



**MOST PARTNERS DID NOT RECEIVED THE NECESSARY
DATA**

**regarding practices and transnational cooperation
instruments used by national inspective bodies +
violations map**

COMPARATIVE ANALYSIS



**Recognition of the national legislative contexts
(before the implementation of directive 2018/957/EU)**



Italy



Portugal



Lithuania

Recognition of the national legislative contexts

- All transposed Directives 96/71/EC; 2014/67/EU; 2018/957/EU
- Limited case-law and legal literature (PT and LT)
- Distinct sets of rules for domestic posting of workers and foreign posting of workers (LT and IT) \neq PT
- Different needs: while IT is mainly concerned with social dumping problems, PT emphasizes the difficulties that some PT undertakings have been facing due to protectionist measures implemented by host countries undermining free competition and preventing PT workers from earning the higher salaries associated with the posting

Recognition of the national legislative contexts

- All cover postings conducted both from undertakings based in an EU state or a third State and, generally, the rules are the same in both cases (Except LT → stricter demands for third States)
- Scope of application: not strictly reserved to a transnational provision of services (PT and LT) ≠ IT
- National public policy provisions → only PT
- Cooperation and information: one competent national body (PT and LT) or several competent national bodies (IT)
- Compatibility of the national frameworks with EU law → some conflicts (IT and PT)
- Going beyond the Directive → PT and IT



Funded by
the European Union



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THANK YOU!



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MUITO OBRIGADA!

This conference has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020). For further information please consult: <http://ec.europa.eu/social/easi>

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