



Industrial relations
**Joint cross-border labour
inspections and evidence gathered
in their course**

[Member States still getting to grips with
the single labour market](#)

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Background

Freedom of movement is one of the four freedoms of the European Union. Ensuring workers' mobility and the freedom of cross-border of services are main objectives of the single market. Hence, the monitoring of mobile workers is an important task to get an accurate picture of the movements on labour markets. This is required for better knowledge of job creations and business competition on the one hand, and on workers social rights and working conditions on the other.

In September 2017, European Commission President Jean-Claude Juncker announced the creation of a European Labour Authority (ELA) in his State of the European Union address to the European Parliament. The aim of the new agency is to ensure that 'all EU rules on labour mobility are enforced in a fair, simple and effective way by a new European inspection and enforcement body'. On 13 March 2018, the European Commission published the Social Fairness Package, consisting of proposals for a ELA regulation and for a Council recommendation to improve access to social protection. The proposal for a Regulation aims at setting up a ELA, in the form of a decentralised EU agency, to help individuals, businesses and national administrations to make the most of the opportunities offered by free movement and to ensure a level playing field for workers' mobility. The Authority has three objectives:

- to facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services. The Authority will provide information on employment, learning, mobility, recruitment and training opportunities, as well as guidance on the rights and obligations of those who live, work or are engaged in cross-border activities in another EU Member State;
- to support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections. For example, the Authority will help to improve the exchange of information, support capacity building in national administrations, and assist them in carrying out joint inspections. The objectives are to enhance mutual trust between the actors, to improve day-to-day cooperation and to prevent possible fraud and abuse;
- to mediate and facilitate a solution in cases of disputes between national authorities.

The mobile workforce is at the cross road of the implementation of several sets of national and European regulations covering, inter alia, such fields as:

- the applicable working conditions of workers, including health and safety;
- social security rules and
- tax regulations.

In most EU countries –as per ILO Convention 81- labour inspectorates (or assimilated control bodies such as for instance the Customs in Germany) are in charge of the control of workers' rights and working conditions. These control bodies' powers are nationally defined and obtain their prerogatives from national regulations, authorising them to intervene, collect information and evidence from controls and inspections they held in their own country. However, in cross-border cases the working or social security conditions are set by the legislation of more than one country and, henceforth, there is a need to cooperate and share

information across borders. Moreover, given the distinct jurisdictions, there is no automaticity that shared information and data among foreign authorities could be considered/used in national procedures.

Therefore, the idea of ‘joint inspection’ has been put forward as in the EC proposal for a Regulation setting up a “European Labour Authority” (ELA), aimed at supporting better exchange of data:

“(13) In view of the fair, simple and effective application of Union law, the Authority should support cooperation and timely exchange of information between Member States. (...) The Authority should encourage the use of innovative approaches to effective and efficient cross-border cooperation, including electronic data exchange tools such as the Electronic Exchange of Social Security Information (EESSI) system and the Internal Market Information (IMI) system, and should contribute to further digitalising procedures and improving IT tools used for message exchange between national authorities.

(14) To increase Member States' capacity to tackle irregularities with a cross-border dimension in relation to Union law within its scope, the Authority should support the national authorities in carrying out concerted and joint inspections, including by facilitating the implementation of the inspections in accordance with Article 10 of Directive 2014/67/EU. These should take place at the request of Member States or upon their agreement to the Authority's suggestion. The Authority should provide strategic, logistical, and technical support to Member States participating in the concerted or joint inspections in full respect of confidentiality requirements. Inspections should be carried out in agreement with the Member States concerned and take place fully within the legal framework of national law of Member States concerned, which should follow up on the outcomes of the concerted and joint inspections according to national law”.

Currently, there is no agreed common definition of ‘joint cross-border joint inspection’ in employment relations. The EU Undeclared Work Platform (UDW) Glossary of Terms (Working Group on ‘Concepts and Shared Understandings’ Oct 2018) defines the Joint and concerted inspections as follows:

Joint inspections (cross-border): inspections undertaken by the competent authority of one Member State on its territory, with participation of the competent authorities of one or more other Member State(s) concerned. Concerted inspections in the cross-border context are inspections undertaken by the competent authorities of two or more Member States simultaneously and related to the same case, with authorities in Member States operating in its own territory and with its own staff.

Joint projects/inspections could be facilitated with regulations addressing: i) the legal value of information exchanged, ii) the legal value of findings of joint enquiries and iii) of findings resulting from joint actions or active assistance in enquiries.

Request

The EC proposal on ELA, mentions the need for the ELA to cooperate and build synergies with other EU agencies, including Eurofound, Cedefop, EU-OSHA, ETF, Europol and Eurojust. To assist with the preparation and establishment of the Authority, the Commission also presented a Decision setting up an advisory group bringing together key stakeholders. The

group advanced the idea of Eurofound mapping the practice, if existent, of joint cross-border labour inspections at EU Member level by labour inspectorates of other competent authorities and, in particular, analysing the question if evidence gathered during these inspections in one Member State may be used in national court, administrative or other proceedings in another Member State.

Objectives

The main objective of this brief report is to briefly map the practice, if existent, of joint cross-border labour inspections at EU Member level by labour inspectorates of other competent authorities and answer the question if evidence gathered during these inspections in one Member State may be used in national court, administrative or other proceedings in another Member State.

- to identify and map national legislation allowing for the use of evidence gathered during these inspections in one Member State may be used in national court, administrative or other proceedings in another Member State?
- to identify and map practices of joint labour inspections at EU Member State level.

Research Questions

To this end the following research questions have been addressed by the Eurofound national correspondents

- Is there a legal basis for joint cross-border labour inspections at EU Member State level?
- Is there a practice of joint cross-border labour inspections at EU Member State level?
- May evidence gathered during these inspections in one Member State be used in national court, administrative or other proceedings in another Member State?

Part 1: Legal basis for joint cross-border labour inspections, sources and instruments

In 18 Member States (MS) a regulatory framework for joint cross-border labour inspections exists either in form of statutory provisions or on grounds of a bi/multi-lateral agreement.

Only a small minority of eight Member States has explicit legislative basis in place catering for the possibility of joint cross-border inspections of labour inspectorates or similar bodies (AT, BE, DE, IE, LU, PL, PT and RO). These countries have also bilateral agreements in place.

In 10 Member States the basis of joint inspections could only be found in bilateral agreements: BG, EE, EL, ES, FR, LT, LV, NL, SK and UK. The Member States with the most bilateral agreements in place are BG (seven), FR (nine) and SK (five).

One Member State (SI), refers to 'other sources' than social or labour legislation or cross countries bilateral agreements, such as the 'Transnational provision of services act'.

Nine Member States do not provide any legal basis for joint cross-border inspections at all (CY, CZ, DK, FI, HR, HU, IT, MT and SE). In Finland however, the Act on 'OSH Enforcement Act 44/2006' allows for the use of a 'qualified external expert' to assist in the investigation of a relevant issue; this qualification can apply to the OSH authorities from another Member State.

Table 1: National legislation / bilateral agreements for cross-border inspections

MS	Legislation yes / no	Agreement yes / no	Description of source
AT	yes	yes	Anti-wage and social dumping act (Lohn- und Sozialdumping-Bekämpfungsgesetz – LSD-BG), Labour Inspection Act (Arbeitsinspektionsgesetz - ArbIG) and bilateral agreements (DE)
BE	yes	yes	Art. 56 and 57 of the Social Criminal Code and bi-lateral agreements (e.g. NL, LU)
BG	no	yes	Bilateral agreements with BE (under negotiation), CY, EL, FR, NO, PL, RO, UK
CY	no	no	
CZ	no	no	none
DE	yes	yes	Enforcement Directive of the Posting of Workers Directive (Durchsetzungsrichtlinie des Arbeitnehmerentsendegesetz) and regional bilateral agreements (e.g. Saarland/Baden-Württemberg with FR and Brandenburg with PL)
DK	no	no	None
EE	no	yes	There are bilateral cooperation agreements between the EE Labour Inspectorate and respective authorities in LT, LV, NO, PL, Southern FI and the Russian Federation.
EL	no	yes	Tripartite cooperation agreements with BG and RO
ES	no	yes	Bilateral agreements with FR, PL, PT and RO. Negotiations with BG ongoing.
FR	no	yes	Bilateral agreements with 9 MS: BE, BG, DE, ES, NL, LU, IT, PL, RO.
FI	no	no	However, Act on 'OSH Enforcement Act 44/2006'), includes use of an expert: The occupational safety and health authorities may use a qualified external expert to assist in the investigation of a relevant issue. This could be applied to the OSH authorities from another Member State.
HR	no	no	None

HU	no	no	None
IE	yes	yes	Workplace Relations Act (2015) and Memorandum of Understanding with UK
IT	no	no	
LT	no	yes	Bilateral cooperation agreement with NO.
LU	yes	yes	Article L.142-1 Labour Code and bilateral agreement with PL
LV	no	yes	Bilateral agreements with Baltic MS (negotiations with DK, NO and SE/with NO in preparation)
MT	no	no	None
NL	no	yes	Bilateral agreements
PL	yes	yes	Art. 22 of the Act on National Labour Inspectorate and bilateral agreements
PT	yes	yes	Organic law and bilateral agreements with ES
RO	yes	yes	Government Decision No. 488/2017 , Law No. 16/2017 , Government Decision No. 337/2017 and bilateral agreements with BE, BG and RO
SE	no	no	None
SI	no	no	Other sources: Transnational provision of services act
SK	no	yes	Bilateral agreements with BE, CZ, DK, RO, PL (in preparation), Serbia
UK	no	yes	Agreement with the Bulgarian Chief Labour Inspector a Memorandum of Understanding with IE

source: national reports of the Network of European Correspondents of Eurofound, EurWORK 2018

Part 2: Practice of joint cross-border inspections

In 19 Member States there is a practice of joint cross-border labour inspections and evidence gathered in their course: AT, BE, BG, DK, EE, EL, ES, FI, FR, HR, IE, LT, LU, LV, NL, RO, PT, SE and the UK. Among this group, two Member States have accepted inspectors from other Member as observers only (DK and FR), whereas 17 Member States have – to a varying degree - experienced concerted and joint inspections, even if most correspondents stress that this practice is rather rare. In total, nine Member States in this group also report practices of cooperation and other activities, such as sharing working processes, training, workshops and exchange of good practices.

A minority of nine Member States does no record practices of joint cross-border inspections at present (CY, CZ, DE, HU, IT, MT, PL, SI and SK). Hungary would accept inspectors from other Member as observers, but this has not happened yet. Among this group are both Member States without a regulatory framework (CY, CZ, IT and MT) and those having a regulatory source, such as DE, PL and SK.

Table 2: Practice of joint cross-border initiatives in EU Member States

MS	Concerted/Joint Inspections	Other cooperation activities	Observations
AT	exist but are carried out rarely.		
BE	Yes		
BG	Yes -limited Joint inspections are not a systematic practice. Based on bilateral agreements with several EU MS	-in 2010 with EL, RO: organising various workshops on exchange of good practices in carrying out inspections -in 2017, BG and No exchange and share on working processes	Inspectors do not have competence on the territory of another MS and should only be present along with the local authorities, assisting them in communicating with posted workers.
DK	Yes		There have been visitors from authorities of other MS, but they have participated as observers only.
EE	Yes, the labour inspectors of foreign MS participated in EE inspections and EE inspectors perform inspections in foreign MS with the aim of exchanging good practises and collecting information and evidence.		
EL	First joint inspection by EL and BG labour inspectors		
ES	Yes, through bilateral agreements with FR, PL PT and RO.		
FR	Yes, but for the French Inspectorate abroad: The French labour inspectorate may participate to cross border inspection in the MS that have concluded a cooperation agreement with the French authorities.		Participants from other MS labour inspectorates only have the role of an observer.
FI	yes	cooperation within EU-projects and between the Nordic and Baltic countries	
HR	yes – <i>limited</i>		

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HU	<i>No practice of joint cross -border inspections as such</i>		<i>foreign inspector may be present as observers but not yet implemented</i>
IE	Yes, <i>but not very often.</i>	visits of foreign inspectors to assist, particularly where English is not the workers' first language and in other specific cases	
IT	<i>Not as such but see the IT-FR agreement regarding the Turin-Lyon high speed train</i>	<i>Some bilateral agreements, for instance with Romania and France, are currently being renewed. Such agreements do not cover proper cross border inspections. Rather they concern cooperation, which includes staff exchanges and joint activities, like seminars and training initiatives</i> <i>Cooperation agreements mostly about mutual learning</i>	<i>Italian inspectors can visit the foreign inspectorate and participate in inspections as observers, with no authority or recognition.</i>
LT	Yes, On basis of the bilateral cooperation agreement with NO,		
LU	practice of joint cross-border labour inspections in the framework of 4 inter-administration bilateral cooperation agreements (on the legal basis of ILO C No. 81,) between the Labour and Mining Inspectorate and: BE (SPF Employment / Social Inspection), FR (DGT – Liaison Office), PL(INT), and PT (ACT).	The LU Liaison Office for Posted Workers carries out the legal missions listed in Directive 96/71/CE in each MS. Study visits and regular follow-up meetings have been organized with the corresponding liaison offices and/or authorities.	
LV	Yes but no regulatory basis and therefore no clear basis for labour inspectorates' competence in cross border inspections; other services are also competent	Cooperation partners are Lithuania, Estonia, Norway, Ireland, Denmark, Romania, Slovenia, Poland, Sweden and Finland.	

		Working group with Norway	
NL	<p>Not as such but simultaneous inspections in the context of the 'Benelux collaboration' with the Belgian and Luxembourgish inspectorates</p> <p>In the Netherlands and Belgium, inspections were carried out simultaneously, and several cross-border cases of fraudulent activities were identified and addressed.¹</p>	Exchange of information via the Liaison Bureau. Deeper forms of cooperation with AT, BE, BG, DE, LU, PL, RO.	
PT	39 inspections in the last 5 years		
RO	Joint controls are carried out, but sporadically.	Cross-border cooperation includes information/documentation sharing and expert consultations.	
SE	There are still very few truly joint inspections being conducted, partly due to jurisdiction issues	In such cases the authorities can send information to other MS regarding the companies to visit.	
UK	<p>Yes</p> <p>Through the GLAA</p>	GLAA received visits from BG, LT, NO and RO labour inspectors and supported outreach work with school leavers in PL and assisted colleagues in MT.	

Source: national reports of the Network of European Correspondents of Eurofound, EurWORK 2018/19

¹ Inspectie SZW, (2017), Samenwerking internationaal, <https://magazines.rijksoverheid.nl/inspectieszw/jaarstukken/2018/02/samenwerking-internationaal> .

Part 3: Other forms of cross-border cooperation between labour inspectorates or other competent authorities

Several forms of cross-border actions are reported from many Member States.

Among others the use of the IMI system facilitating exchange of information and data and therefore cross border cooperation among labour inspectorates, has been quoted as particularly relevant by some Member States: AT, BE, BG, CY, CZ, DE, EE, FI, FR, HU, LT, RO and SK.

In addition to this, other forms of joint cross-border cooperation are recorded on the basis of bilateral agreements, e.g. CZ, DE (at regional level), DK, EL, ES, FI, NL, LT, PL, SK and UK.

The role of European regulations (e.g. Posting of Workers Directive, Enforcement Directive) and/or actions has also been referred to by many national correspondents.

An interesting form of cross-border cooperation is reported from France, which has set-up decentralised liaison offices with BE, ES, IT and LU.

Further cooperation takes place on the basis of EU programmes and projects, for example:

- the European Platform of Undeclared Work;
- the European Senior Labour Inspectors' Committee's campaign on OSH of the temporary agencies workers and cross-border temporary agencies workers, and
- Eurodetachment IV.

Table 3: Other forms of cross-border cooperation between labour inspectorates/other authorities

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
AT		X			
BE	Regular meetings with DE, FR, LU and NL on general topics and case related items.	X	Telephone calls, e-mail.		
BG		X			
CY		X Four modules for the posting of workers	Informal exchange of information and good practices with another MS		Labour Inspectorate is involved in the European Platform for tackling Undeclared Work ND is implementing a EU project “No tolerance for undeclared work” to improve cooperation among labour inspectorates from CY, BE, BG, EL and NL.
CZ	Concluded 2 cooperation agreements with SK and PL sharing information and good practice, joint training, study visits, participation at conferences.	X Used to identify specific information on entities and posted persons and their working conditions.		SLIC – KSS portal is used to Obtain information from other MS often in the case of updating occupational health and safety legislation.	Ministry of Labour and Social Affairs concluded 3 bilateral agreements with DE, FR and NL on combating illegal employment, unreported gainful employment and illegal hiring of cross-border workers, as well as cross-border abuse of social benefits and the non-payment of insurance contributions.
DE	At regional level: e.g.	X Used by the Customs Service, but hardly used			

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
	<ul style="list-style-type: none"> - labour inspectorate of Saarland which cooperates with Baden-Wurttemberg and FR and - labour inspectorate of Brandenburg which holds a cooperation agreement with PL 	by the labour inspectorates.			
DK			DK has concluded bilateral agreements with PL, SK and other MS to increase exchange of information. The bilateral agreements do not cover inspections.	X	
EE		X			
EL	On a sporadic basis with BG				
ES			There are bilateral agreements with 4 MS (FR, PL, PT and RO) focusing on exchange of information, mostly in relation to posted workers.		

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
FI	Bilateral agreement between the EE Labour Inspectorate and the Regional Labour Inspectorate of Southern Finland: https://www.ti.ee/fileadmin/user_upload/failid/dokumendid/Organisatsioon/Toeoeinspektsioon/Leping.pdf	X Used nationwide			
FR	Framework of liaisons offices settled by the pow directive. Instead of having only one liaison office at national level, the Labour General Directorate has also created decentralised liaisons offices in several FR regions having borders with neighbouring MS (Alsace for DE, Lorraine for LU, Nord-Pas-de-Calais for BE, Provence Alpes Côte d’Azur/Rhône Alpes for IT and Aquitaine/Languedoc-Roussillon for ES).	X Used by the Liaisons office at national level		Specific project on joint inspection in the temporary agency work sector launched by the SLIC to carry out a pilot cross-border enforcement in the course of the SLIC Campaign on Temporary Agency Workers.	EU Platform; - EU funded project Euro-detachment aiming to reinforce cooperation between labour inspectorate and other control bodies. Joint inspections with PT have been organised before any cooperation agreement has been signed between the two MS.
HR					Inspectorate participated in international projects, like the IPA Twinning project” The Increase of policy and capacity for prevention of non-registered work.”

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
HU		X Good cooperation system with a sufficiently regulated legal background.			
IE	WRC built up informal personal networks with other national labour inspectorates (e.g. PT, RO, SE, UK). In 2016, the UK Gangmasters Licensing Authority and WRC signed a formal MoU designed to boost cross-border protection for workers.		European meetings, telephone conversations and visits		WRC participated in multi-agency inspections involving Irish registered fishing vessels in the fisheries sector.
IT			Information exchange regularly takes place about the posting of workers, as provided by the Enforcement Directive		Participation in projects funded by the European Commission
LT	Exchange agreements with EE, LV and PL.	X			
LU	Many forms of cross-border cooperation between competent authorities other than joint inspections, e.g. the exchange of letters in 2011 between LU and FR for				

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
	the development of the administrative cooperation and mutual assistance in social security (since 2014).				
LV			Exchange of information with DK, EE, FI, LT, NO, IC, IE, RO, SI, SE		
NL	Based on bilateral agreements			X	Via EU programmes (Eurodetachment IV)
PL	Pursuant to Art. 9 of Act of 10 June 2016 on posting of workers, the responsibilities of the National Labour Inspectorate include cooperation with relevant bodies of other MS, e.g. joint controls carried out by labour inspectors of the Regional Labour Inspectorate in Poznań and inspectors of the SWS in the NL.		Bilateral agreements provide for exchange of information		
PT			Knowledge and information exchange, cooperation on posting of workers, exchange operational documents		Awareness raising, exchange of staff and joint training

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
RO	Meetings with the management of Labour Inspectorates of other MS take place, such as the one within the project Explorer (2015), which involved the cooperation of the RO Labour Inspectorates with the UK GLA.	X			RO Labour Inspection cooperates with authorities in other MS on basis of projects such as <u>ENFOSTER project</u> (2015)
SE	Nordic countries also collaborate within a joint scenario analysis called <i>Nordic Future group</i> .				The work has produced a <u>report</u> and the work has been widely disseminated and now also includes the ILO and EU-OSHA.
SI	Labour Inspectorate and financial administration joined EU action against human trafficking, coordinated by the NL inspectorate with the UK GLA. Joint inspections were carried out on construction sites across SI. The inspectorate participated in joint EU checks of road transport companies in cooperation with police, financial administration and the Association of Free Trade Unions of SI. The other joint action was the EU CAMPAIGN connected to health and safety of agency workers.			X The Labour Inspectorate takes part in the SLIC and participates in the European information and communication centre on safety and health at work.	European information and communication centre on safety and health at work.

MS	Cross border cooperation	Exchange of information		Other	
		IMI	General	SLIC	Other
SK	The SK labour inspectorates concluded separate agreements on cooperation with individual control bodies and on common procedures for the examination of employment conditions and conditions for posted workers with CZ, PL and RO.	X			
UK	Agreement with the BG Chief Labour Inspector and MoU with IE to boost cross-border protection for workers.				

source: national reports of the Network of European Correspondents of Eurofound, EurWORK 2018/19

Part 4: Evidence gathered during joint cross-border inspections in one Member State and use in national court, administrative or other proceedings in another Member

A number of Member States allow that evidence gathered during joint cross-border inspections in one Member State is used in national court, administrative or other proceedings in another Member State.

- The use in national courts of evidence gathered during joint cross-border inspections in another Member State is possible in 14 Member States: AT, BE, EE, ES, FI, FR, HR, IE, LT, LU, LV, NL, PL and the UK.
- 18 Member States accept using this evidence in administrative proceedings: AT, BE, BG, CZ, EE, ES, FI, FR, HR, IT, LT, LU, LV, NL, PL, RO, SI and the UK.
- All Member States in the previous group allowing the use in national courts, except Ireland, are part of this group (13).
- Among this group, five Member States allow using the evidence collected abroad not directly, but through the IMI system of request of information: BG, CZ, FR, HR and IT.

Legal provisions for using evidence gathered abroad do not exist in nine Member States: CY, DE, DK, EL, HU, MT, PT, SE and SK.

- Among this group, five Member States are not participating in any joint cross-border inspections or activities: CY, DE, HU, MT and SK.
- Two countries practice (or accept) cross border-observations (DK, HU) and in three (EL, PT and SE) joint cross-border inspections exist.

Table 4: Evidence gathered during joint inspections and use in national proceedings

MS	May evidence be used? yes / no	If yes, where?		
		Courts	Administrative	Observation
AT	yes	yes but limited	yes	
BE	yes	yes	yes	
BG	not directly but in the context of IMI	no	yes GLI is the competent authority for the execution of enforceable decisions sent with a request for recovery through IMI by which the competent authorities of another MS impose administrative penalties or fines.	
CY	NA	NA	NA	
CZ	not directly but in the context of IMI	no	yes For inspections initiated by the State Labour Inspectorate (SÚIP), information obtained from the IMI is used with respect to CZ entities. SÚIP has the option to request the verification of facts concerning foreign entities posting their workers to CZ. Information obtained through the IMI system can be used for control and follow-up administrative procedures. SÚIP can obtain any other information checking on posted workers' A1 forms.	
DE	no	no	no	
DK	no	no	no	

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EE	yes	yes	yes Labour Inspectorate stated that evidence gathered in EE was used in foreign MS, if national law allowed it. EE Labour Inspectorate has not yet experienced the use of evidence gathered from a foreign MS in EE. Evidence gathered from FI became reference in EE administrative procedure.	
EL	no	no	no	
ES	yes	yes	yes	
FI	yes	yes	yes	No practical experience yet.
FR	not directly but in the context of IMI	yes	yes The FR labour inspectorate uses the IMI. The FR liaison office at national level has access to IMI and can exchange information with labour inspectorates from other MS. The information may be used in administrative or judicial proceedings in FR. Information collected by the labour inspectorate of the MS which received the FR observer may be transmitted under the procedure provided for in the pow Directive to the liaison office	
HR	not directly but in the context of IMI	yes	yes	
HU	no	no	no	No practical experience yet.
IE	yes	yes	no	
IT	not directly but in the context of IMI	no	yes	

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LT	yes	yes	yes	
LU	yes	yes	yes	
LV	yes	yes	yes	No practical experience regarding court cases yet.
MT	no	no	no	
NL	yes	yes	Yes Warnings and fines are the main administrative instruments.	Legal sources are not made publicly available.
PL	yes	yes	yes	
PT	no	no	no	
RO	yes	no	yes Evidence provided by labour inspectors in another MS can only be used by RO inspectors to individualize the sanction.	
SE	no	no	no	
SI	yes	no	yes Evidence has immediate effect on the administrative proceeding of the Health Insurance Institute which has the power to issue and withdraw A1 forms.	
SK	no	no	no	
UK	yes	yes	yes , For licensing requirements	

source: national reports of the Network of European Correspondents of Eurofound, *EurWORK 2018/19*

Part 5: Summary

Twelve Member States have fully-fledged joint cross border inspections, activities and use of evidence in national courts: AT, BE, EE, ES, FR, IE, LT, LU, LV, NL, PT and UK.

All these countries have/allow for:

- a regulatory framework through national legislation and bilateral agreements;
- some practice of joint cross-border inspections and cooperation;
- use in national courts of evidence gathered abroad.

Six Member States have some practice of joint inspections or observations, but no regulatory framework in place: DK, FI, HR, HU, IT and SE. Among them, three Member States display clear practice of joint cross border inspections: FI, HR, SE.

One Member State (Italy) records a single experience of cross border agreements and practice (with the French authorities).

Two countries of this group, DK and HU, have currently no regulation, but accept foreign inspectors as observers, even if this is described as a possibility only in Hungary at present.

To date, seven Member States do not have any practice of joint cross border inspections: CY, CZ, DE, MT, PL, SI and SK.

Among them, three Member States have some regulations in place (DE, PL, SK), while four countries have no regulatory framework nor practice (CY, CZ, MT and SI).

When it comes to other cooperation activities, such as information exchange, the use of the IMI has been quoted as particularly relevant by some Member States: AT, BE, BG, CY, CZ, DE, EE, FI, FR, HU, LT, RO and SK. In addition to this, other forms of joint cross-border cooperation are recorded on the basis of bilateral agreements, e.g. CZ, DE (at regional level), DK, EL, ES, FI, NL, LT, PL, SK and UK.

The role of European regulations (e.g. Posting of Workers Directive, Enforcement Directive) and/or actions have also been referred to by many national correspondents (e.g. the European Platform of Undeclared Work, the European Senior Labour Inspectors' Committee's campaign on OSH of the temporary agencies workers and cross-border temporary agencies workers and several other projects, such as Eurodetachment IV).

Table 5: Summary

MS	Regulatory basis		Cross border practice		Use of evidence	Other form of cooperation	
	<i>legislation</i>	<i>agreement</i>	<i>joint inspections</i>	<i>observation</i>		<i>in general</i>	<i>IMI</i>
AT	yes	yes	yes		yes		yes
BE	yes	yes	yes		yes	yes	yes
BG	no	yes			through IMI		yes
CY	no	no	no		N/A	yes	yes
CZ	no	no	no		through IMI	yes	yes
DE	yes	yes	no		no	yes	yes
DK	no	no		yes	no	yes - not covering inspections	
EE	no	yes			yes		yes
EL	no	yes	yes		no		
ES	no	yes			yes		
FI	no - except OSH	no	yes	yes	yes		
FR	no	yes	yes, for FR Labour inspectorate abroad	yes	through IMI		yes
HR	no	no			through IMI	yes	

HU	no	no	no	potentially	no		yes
IE	yes	yes			yes	yes	yes
IT	no	no	no		through IMI		yes
LT	no	yes			yes	yes	yes
LU	yes	yes			yes	yes	
LV	no	yes			yes <i>in theory - no case yet</i>	yes	
MT	no	no	no		N/A		
NL	no	yes			yes	yes	
PL	yes	yes			yes	yes	
PT	yes	yes	yes		no	yes	
RO	yes	yes			yes	yes	
SE	no	no	yes		no		
SI	no <i>but other source</i>	no	yes		yes		
SK	no	yes	no		N/A	yes	yes
UK	no	yes			Yes	yes	

source: national reports of the Network of European Correspondents of Eurofound, EurWORK 2018/19

References

All Eurofound publications are available at www.eurofound.europa.eu

Annex 1: Examples of national legislation

Belgium: Social criminal code – information sharing amongst labour inspectors (Belgium national and abroad)

Art. 56. The use of information obtained from other administrations or inspection services

The public and collaborating institutions of social security, the social inspectors, the social inspectors of other inspection services, as well as all civil servants charged with the supervision of another legislation may use the information obtained pursuant to respectively Articles 54 or 55 for the exercise of all tasks regarding the supervision with which they are charged.

Art. 57. With the labour inspection services of the other member states of the International Labour Organization in which Convention No. 81 concerning labour inspection in industry and commerce, approved by the Act of 29 March 1957, is valid, the social inspectors may exchange all information which is possibly useful for the exercise of the supervision which each of them is in charge of. Information obtained from the labour inspection services of the other member states of the International Labour Organization shall be used in the same manner as similar information which the social inspectors gather directly.

Information intended for the labour inspection services of those member states shall be gathered by the social inspectors in the same manner as similar information which they gather for the exercise of the supervision which they oversee themselves. The administrations which the social inspectors fall under may also, in implementation of an agreement concluded with the competent authorities of a member state of the International Labour Organization, allow the presence on the national territory of civil servants of the labour inspection services of that member state in order to gather all information which can be useful for the exercise of the supervision which the latter are in charge of.

Information gathered abroad by a social inspector within the framework of an agreement concluded with a member state of the International Labour Organization may be used under the same conditions as the information gathered by the social inspectors in Belgium.

In implementation of such an agreement, the administrations under which the social inspectors fall may also proceed to other forms of mutual assistance and cooperation with the labour inspection services of the other member states of the International Labour Organization as provided for in the first limb. The provisions in the first to sixth limbs shall also apply to the agreements regarding the exchange of data concluded between the competent Belgian authorities and the competent authorities of the states which have not signed Convention No. 81 concerning labour inspection in industry and commerce, approved by the Act of 29 March 1957.

Spain: Law 23/2015, of 21 July, Organising the System of Labour and Social Security Inspection (Ley 23/2015, of 21 de julio, Ordenadora del Sistema de Inspección de Trabajo y Seguridad Social) (rough translation by Eurofound)

“The collaboration of the Authorities of the Member States of the European Union with competences equivalent to those of the (Spanish) Labour and Social Security Inspectorate will be governed by European Union regulations or by bilateral or multilateral agreements of which the Spanish state is a party.

The facts verified by the above authorities in the field of international administrative cooperation that are provided to the Spanish authorities may be adduced as evidence by the Labour and Social Security Inspectorate in the procedures initiated by it and shall be considered as true, subject to proof to the contrary, which the concerned may adduce.”

Ireland: - Workplace Relations Act 2015

Administrative cooperation with foreign statutory bodies on law enforcement matters

35. (1) The Commission may, with the approval of the Minister, enter into an arrangement with a foreign statutory body whereby each party to the arrangement may—

(a) furnish to the other party information in its possession that is required by that other party for the purposes of the performance by it of any of its functions, and

(b) provide such other assistance to the party as will facilitate the performance by that other party of any of its functions.

(2) The Commission shall not furnish any information to a foreign statutory body pursuant to an arrangement to which this section applies unless it requires of, and obtains from, that body an undertaking in writing by the body that the body will comply with the terms specified in that requirement, being terms that correspond to the provisions of any enactment concerning the disclosure of that information by the Commission.

(3) The Commission may give an undertaking to a foreign statutory body that it will comply with any terms specified in a requirement made of the Commission by the body to give such an undertaking where—

(a) those terms correspond to the provisions of any law in force in the state in which the body is established, being provisions which concern the disclosure by the body of the information referred to in paragraph (b), and

(b) compliance with the requirement is a condition imposed by the body for furnishing information in its possession to the Commission pursuant to an arrangement to which this section applies.

(4) The Commission shall inform the Minister concerning every arrangement entered into under this section.

(5) An arrangement under this section shall not operate to require the Commission to provide information to a foreign statutory body if the disclosure of that information by the Commission is prohibited by law.

(6) In this section “foreign statutory body” means a person prescribed by the Minister, in whom functions in respect of the implementation or enforcement of the law of a state (other than the State) relating to the employment of persons are vested.

Lithuania: Article 109 of the Labour Code

3. The State Labour Inspectorate shall provide information immediately and free of charge to, or otherwise cooperate with, competent authorities of other European Union Member States regarding the application of the conditions set out in this Code to posted workers as well as violations of posted worker guarantees. The State Labour Inspectorate shall ensure that information on the provisions of the regulatory acts of the Republic of Lithuania, including expanded collective sectoral and territorial agreements, concerning the conditions applicable to a posted worker, is available to European Union Member State employers free of charge, in a clear, transparent and comprehensive manner, remotely and electronically, in internet access format and standards, while ensuring accessibility to people with disabilities.

Annex 2: ILO Convention C 81

Labour Inspection Convention, 1947 (No. 81) -Convention concerning Labour Inspection in Industry and Commerce (Entry into force: 07 Apr 1950)Adoption: Geneva, 30th ILC session (11 Jul 1947)

(...)

PART I. LABOUR INSPECTION IN INDUSTRY

Article 1

Each Member of the International Labour Organisation for which this Convention is in force shall maintain a system of labour inspection in industrial workplaces.

Article 2

1. The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.

2. National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention.

Article 3

1. The functions of the system of labour inspection shall be: (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare,

the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;

(b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;

(c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

2. Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

Article 4

1. So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.

2. In the case of a federal State, the term central authority may mean either a federal authority or a central authority of a federated unit.

Article 5

The competent authority shall make appropriate arrangements to promote:

(a) effective co-operation between the inspection services and other government services and public or private institutions engaged in similar activities; and

(b) collaboration between officials of the labour inspectorate and employers and workers or their organisations.

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