Strengthening ELA's added value: better information and easier application of the law

Position Paper on the European Commission's proposal to revise the ELA Regulation (COM(2026) 985 final)

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This document has been machine-translated from German; the German version is available here.

Summary

The revision of the Regulation establishing the European Labour Authority (ELA) should be used to facilitate cross-border labour mobility, improve the application of existing rules and strengthen cooperation between competent authorities. In doing so, ELA must also provide tangible added value for businesses and employers:

- **ELA's information mandate should be at the heart of its work.** A multilingual helpdesk established under Article 5 of the ELA Regulation as a central point of contact for questions relating to cross-border labour mobility is needed. It could provide clear information, checklists, procedural guidance and other practical tools to facilitate compliance with existing rules. This would help prevent errors and reduce administrative burdens. Grants under Article 29 should remain proportionate and must not create duplicative structures.
- **Effective enforcement of existing law is better than new regulation.** Closer cooperation on inspections under Articles 8 and 9 and on risk assessments under Article 10 is sensible in principle, provided that Member States' competences are respected. ELA should coordinate and support these activities without conducting investigations or inspections independently. In particular, it should facilitate the cross-border posting of workers rather than make it more difficult by imposing additional administrative burdens.
- **ELA's new data powers must clearly remain limited.** Access to data under Articles 23a to 23d must be limited to what is necessary for the specific purpose and must be proportionate. The new powers must neither create autonomous investigative and enforcement structures nor contribute to a gradual harmonisation of labour law and collective bargaining law at European level.
- **Advice for third-country nationals must remain limited to employment and social security matters within the EU.** The clarification in Article 5 is sound in principle. However, it must not entail any extension of ELA's tasks or competences to matters of migration law.

In Detail

Providing clear information and facilitating the application of the law

ELA should strengthen its role as a central point of contact for cross-border labour mobility by establishing a dedicated helpdesk under Article 5 of the Regulation. The helpdesk should operate on a permanent and multilingual basis. It should answer individual queries and be equally accessible to all relevant groups. These include employers, workers, small and medium-sized enterprises (SMEs), social partners and other stakeholders involved in cross-border labour mobility.

Good information under Article 5 is the basis for compliance. Businesses operating across borders must navigate complex notification procedures, posting requirements, remuneration rules and social security procedures. SMEs often lack the resources to maintain specialised legal departments for this purpose. ELA can provide tangible European added value by providing employers with information efficiently, clearly and from a single source. The helpdesk should provide practical guidance on Union and national requirements and identify relevant procedures, competent authorities and reliable sources of information. Where binding decisions or interpretations are required, it should direct users to the competent national authorities, while respecting existing competences, particularly those of EU equality bodies.

Information alone is often insufficient in complex cross-border situations. ELA should therefore complement information with practical tools to facilitate the application of the law. Capacity building under Article 11 should support this task through multilingual checklists, information templates, procedural guidance and interoperable digital tools. These tools would facilitate the day-to-day application of the law, thereby preventing errors and reducing administrative burdens. Practical tools would promote the correct application of the law even before inspections take place. This would allow authorities to focus their inspections more closely on specific risks of abuse.

ELA must not outsource these core tasks. External bodies may complement ELA's work by providing local or sector-specific expertise. However, services provided directly by ELA and existing European or national structures should take priority. Grants under Article 29 should remain proportionate and must not lead to duplicative structures. ELA should award grants transparently, in a politically neutral and balanced manner, for services aimed at both workers and employers. In doing so, it should pay particular attention to the needs of SMEs. It should also provide annual reporting on beneficiaries, objectives and measurable results.

Effective enforcement of existing law

ELA should support Member States in enforcing existing law more effectively. Closer cooperation on concerted and joint inspections under Articles 8 and 9 and on risk assessments under Article 10 makes sense in principle. It must support the national authorities while respecting their competences. However, these instruments must not be used to justify additional regulation. They must not create duplicative structures.

ELA should in future be able to propose inspections under Article 8 on its own initiative. However, the Member States concerned must continue to be able to decide whether to participate and whether an inspection is carried out. Their agreement must remain a prerequisite for any inspection. Joint inspections under Article 9 must also respect national law and national competences. The powers of authorities from other Member States and of ELA staff may only be exercised with the agreement and under the responsibility of the authority of the Member State in which the inspection takes place. ELA should coordinate and provide support in this context, but must not conduct investigations, inspections or enforcement measures independently of the competent national authorities. It is not an independent European enforcement authority. Responsibility for the interpretation, application and enforcement of the law must remain with the Member States.

Effective enforcement of existing law is better than new regulation. Shortcomings in enforcement do not automatically indicate a regulatory gap. Inspections and risk assessments under Articles 8 to 10 must remain risk-based, targeted and proportionate. They should focus on specific risks and indications of infringements rather than placing lawful business models or entire sectors under general suspicion. New blanket legislative approaches to inspections, by contrast, would also burden compliant businesses, particularly SMEs, for example through additional requirements to provide evidence, documentation or information. This applies in particular to the cross-border posting of workers: ELA should facilitate such posting rather than make it more difficult by imposing additional burdens.

Clear information and practical tools to facilitate the application of the law strengthen enforcement even before an inspection takes place and help prevent unintentional infringements.

Limiting data access and respecting national competences

ELA's new data powers must be clearly limited. Operational information should only be processed for clearly defined tasks. The new Articles 23a to 23d can improve the exchange of information and risk analysis. However, any access must be necessary, purpose-specific and proportionate. The new powers must not lead to de facto independent investigative and enforcement structures. Inspections, investigations and sanctions must remain the responsibility of the Member States. Nor must these powers contribute to the gradual harmonisation of labour law and collective bargaining law at European level. The new Articles 23a to 23d must reflect this principle.

For general analyses, ELA should primarily use aggregated or anonymised data. Access to data relating to identifiable persons, companies or individual cases should require the agreement of the Member States concerned.

Trade secrets and confidential business information must remain protected. ELA must not unnecessarily collect information again that is already available or store it in parallel data sets. Existing European and national systems should be given priority to avoid duplicative structures.

Advice for third-country nationals limited to employment and social security matters

The clarification in Article 5 of the proposed Regulation that third-country nationals living and working in the EU may also receive advice on cross-border employment and social security matters within the EU is sound in principle. This should not entail any extension of ELA's tasks or competences to other matters. The recitals rightly state that matters relating to entry, residence, return or migration management should not fall within the remit of a European labour authority. These matters fall within the competences of the Member States themselves.

When transposing the European migration directives, Member States have made different use of the discretion provided for in those directives. In addition to the European migration directives, national legal frameworks on migration also apply. Questions relating to entry, residence and return can therefore only be answered by the Member States themselves.

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