Fulfilling rather than expanding ELA's mandate: addressing the agency's shortcomings

Position paper on the revision of the mandate of the European Labour Authority (ELA)

This document has been machine-translated from German. The original German version is available here.

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Summary

Before the mandate of the European Labour Authority (ELA) is expanded, its existing legal tasks must be fulfilled: ELA should focus primarily on providing needs-based information on EU labour mobility and on making real progress in digitalisation, rather than further expanding its administrative structures. To date, the agency, which was established in 2019, has serious shortcomings in terms of providing information, particularly to employers, in order to create transparency about the EU legal framework for posted workers, for example.

The added value of ELA remains questionable, despite the considerable tax funds invested. To date, the agency has failed to fulfil its mandate under Article 5 of the ELA Regulation to provide easily accessible and reliable information on labour mobility. Particularly in the case of posting, inconsistent national requirements, bureaucratic procedures and a lack of digital interfaces continue to cause considerable additional work and legal uncertainty for employers. ELA does not remedy this situation. Extending the mandate – for example, through stronger powers of intervention or more binding cooperation with Member States – carries the risk of covering up structural problems with more powers instead of remedying them with concrete measures.

In detail

Sharpening the core tasks of ELA

ELA must primarily support cooperation between Member States – not take on centralised management or control functions. Even within its existing mandate, the agency can create considerable added value if it focuses consistently on coordination, transparency and practical guidance. The upcoming review of the mandate should therefore not aim to expand its powers, but rather to sharpen its core tasks:

- ELA should position itself as a central point of contact for businesses and employees in order to make the complex set of rules on EU labour mobility easier to navigate.
- In close cooperation with the Member States, ELA must provide transparent and reliable information on posting notifications, wage comparisons and A1 certificates. The information mandate under Article 5 should be backed up by concrete measures, such as model texts for national websites or the systematic translation of key content into all official EU languages.
- As the European hub for labour mobility, ELA should actively support the Commission and the Member States in simplifying administrative procedures and

reduce bureaucracy through digital tools. Digitalisation must become a key priority in this regard.

- In combating undeclared work, particularly in joint controls, ELA should continue to play a coordinating and supporting role, while strictly respecting the sovereign enforcement powers of the Member States.
- ELA can only add value if it works across sectors. A one-sided focus on certain industries falls short and does not contribute to fair EU labour mobility.

Significantly improve the provision of information

ELA must use its resources in a targeted manner to strengthen its existing core mission. It should work to improve national information portals: information must be provided in a more accurate, multilingual and user-friendly manner. ELA should become a reliable and primary source of information for key areas of labour mobility, such as the posting of workers, A1 certificates and remuneration comparisons.

Introduce a helpdesk or chatbot for employers

It is long overdue to finally implement the need for a legally compliant helpdesk or chatbot, which has been known for years. Such a service is repeatedly identified as necessary, but concrete steps have yet to be taken. So far, only a feasibility study is available; concrete steps are lacking. It is not necessary to extend ELA mandate – implementation is already covered by Article 5.

Drive forward digitalisation

ELA must make clear progress and achieve measurable results in key EU digitalisation projects, in particular EESSI, IMI, eDeclaration and ESSPASS. It is not expedient to extend ELA mandate in the EURES area: shared responsibility for the platform leads to structural inefficiencies. Furthermore, EURES does not yet provide sufficiently targeted information for employers – there is a fundamental need for improvement here.

No ELA support for trade union projects

ELA must remain politically neutral and focus on coordination between Member States. Extending its mandate to support trade union-led projects such as "Fair Mobility" jeopardises this principle. Article 5 should provide clarity here, clearly limit the scope and involve stakeholders in a balanced manner.

Focus on mobility within the EU

ELA's priority must be to support labour mobility within the EU. Proposals to extend ELA's remit to third-country nationals, migration issues or cooperation with third countries go beyond its core mission and overstretch the agency's limited resources.

Remain faithful to the scope of the mandate

The agency should remain true to its fundamental principles. ELA's mandate must not be extended to labour exploitation, occupational health and safety or general social policy. This would shift the institutional balance and fundamentally change the character of the agency. The interfaces with other policy areas identified in practice must not serve as a gateway for an extension of the mandate. Such a development would undermine the existing competences of the Member States and specialised EU agencies, erode the principle of subsidiarity and transform ELA from a supporting coordination body into a politically steering actor.

Protect company data

The protection of sensitive business information must be guaranteed. When improving data interfaces, it must be clearly regulated which company data ELA is allowed to collect and store. Extending the mandate to process such data is dangerous: it could lead to significant problems in terms of confidentiality, transparency and proportionality. Clear safeguards are needed to prevent disproportionate interference with confidential information.

Only provide support for controls

ELA must limit itself to its role as a moderator and coordinator of joint controls – it must not act as an independent enforcement agency. If ELA conducts its own risk analyses, receives complaints or initiates inspections based on its own data, it interferes with national competences. Such duplicate structures in enforcement must be specifically avoided. They are superfluous and add no value.

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