Transnational cooperation between the counselling office for posted workers and public authorities

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1. Who we are

- Project provider: trade union-linked association Arbeit und Leben Berlin e.V.
- Advisory activities since 01.08.2010
- Funded by: Berlin Senate Administration for Integration, Employment and Women Affairs
- Target group: temporary employed workers, most notably: posted workers
- Counselling provided in: Romanian, Russian, Polish, Spanish, German, English, French
2. What we do

• Counselling on labour and social law:
  • Prevention – direct or through multiplicators
  • Intervention
3. Number of cases 2011-2016
4. National and transnational cooperation - experience of the counselling office BEB

• Legal infringements are recorded and forwarded by BEB to the relevant domestic and foreign authority and trade unions
  • FKS
  • national Labour Inspectorates
  • SOKA Bau
  • Police
  • Sectoral Trade Unions
• Collaboration in local and transnational networks
5. Background of the meeting in Nuremberg

• Background:
  • Case of Romanian posted workers employed on a construction site in Nuremberg and advised by BEB

• Participants:
  • Romanian Labour Inspectorate, FKS Nuremberg, General Directorate of Customs, Trade Union IG Bau Nuremberg, SOKA-Bau, Arbeit und Leben e.V.

• Purpose
  • Presentation of competences and proceedings regarding the controls in the field of posting of workers
  • Evaluation of opportunities of strengthening of the international collaboration
6. Results regarding the collaboration between German and Romanian control authorities

• Currently:
  • intermediation role of the counselling office
  • lack of notification about misconduct
  • no bilateral agreement
  • no direct contact between the two authorities

• Perspective: improvement of direct contact
7. Results regarding the usage of collaboration tools

• No effective utilization of the IMI-System:
  
  • Centralization of the IMI System
  • 1,580 IMI inquiries send within the EU in 2015. Germany: received 70; sent 4
  • Genuineness of the posting is not controlled (no legal requirement for the application of the minimal working conditions)
  • Limited applicability (not foreseen for social insurance questions)

• Binding effects of A1 form as a main obstacle for German authorities
8. Questions

• Control request only through IMI?

• Experiences with bilateral and direct contact with responsible control body in the sending country: Is it possible to cooperate also without legal basis of bilateral agreement? How can this work?

• Access of regional Financial Control Authority to IMI? Decentralisation of IMI?

• Extension of IMI to other authorities CNAS= Social Security?

• How do you handle the obstacle of binding effect of A1 form in the control practice?

• In cases in which an A1 form has been withdrawn: who is responsible for retrieving the social contributions?