

Portugal's **Working Conditions Authority** (ACT) operates in two public administration fields:

- The promotion of health and safety;
- The inspection of working conditions.

The ACT was founded on October 1, 2007 by the Portuguese government as part of a programme to restructure the country's public authorities.

We can boast both technical preventive skills and all the skills required for our inspection activities. Our role covers two main fields:

- Encouraging improvements to working conditions;
- Promoting occupational risk prevention policies.

It is important to deploy the necessary resources and introduce the tools needed to combat illegal labour in the service provision field. It is very important to improve and bolster the strategies and methods for monitoring rules concerning the transnational secondment of workers.

The conclusion of bilateral agreements between labour inspectorates or liaison offices concerning the secondment of workers complies with Recommendation 2008/C85/01 of the European Commission.

The Working Conditions Authority has forged bilateral agreements in order to bring together the inspection systems of Spain, the Netherlands, Bulgaria, Poland, Romania, Belgium and Luxembourg.

These agreements make it possible to interchange labour inspectors and experts, to exchange the information resources produced by each of us, and to work together in training programmes.

These agreements also make it possible to envisage proposing and developing joint projects organised via the European Union (EU) or the International Labour Office (ILO).

They provide an opportunity to improve the mutual exchange of information about the application of European Directives and to share ideas concerning planning and coordination methods for special activities.

Regarding the transnational provision of workers, situations of abuse clearly exist with transnational activities developing under illegal conditions. Consequently, in order to be able to promote the provision of services in a transnational environment, it is necessary to guarantee fair competition and to put in place measures ensuring that workers' rights are respected.

For this reason, the different inspection systems must commit themselves to exchanging information and to coordinating their operational procedures regarding the secondment of workers.

With the objective of ensuring that seconded workers' working hours and holiday entitlements are protected.

With the objective of ensuring that seconded workers are legally guaranteed the payment of salary, and supplements for overtime, in addition to equal treatment and the observance of the principle of non-discrimination.

With the objective of guaranteeing health and safety, and of reducing occupational accidents and illnesses affecting seconded workers.

With the objective of verifying if companies are carrying out legal, compliant activities in their country or whether the companies have only been created in order to practice lower wages and avoid Social Security declarations.

Seconded Portuguese workers are entitled to the same working conditions as citizens of the host country if these conditions are more favourable, particularly concerning:

- The salary;
- The working hours;
- Overtime;
- Holidays;
- Occupational health and safety conditions;
- Maternity and paternity protection measures;
- Equality of the sexes.

On the other hand, in cases in which workers' rights in the destination country are less favourable than those enshrined in Portuguese law, the seconded worker must benefit from the working conditions prevailing in Portugal, i.e.:

- Maximum working hours and rest periods (40 hours worked per week and 8 hours per day);
- 22 days' paid holiday per year;
- Minimum wage as established by applicable collective agreements;
- Occupational health and safety;
- Protection for pregnant women and minors;
- Equality of the sexes.

Seconded Portuguese workers are also entitled to compulsory social protection, i.e. the European Health Insurance Card and the form certifying that the worker is subject to the law as regards Social Security.

Portuguese workers are often directly recruited in the host countries without the employers implementing the relevant legal measures.

It is often the case that workers hired by Portuguese companies in Portugal are seconded to carry out international activities, paying salaries lower than those payable in the country in which the work is being performed. All too often, these

workers do not have sufficient health and safety cover, increasing both the likelihood and seriousness of occupational risks.

Cases involving Portuguese workers having to work excessive hours compared to nationals of the host country have also been detected.

The free circulation of people and services is a vital aspect of the internal market. However it is also a fact that this free circulation has increased the possibilities for companies to sidestep employment standards. This free circulation is often related to illegal practices concerning the payment of social security contributions.

Against a backdrop of the economic and financial crisis in which Portugal has been particularly hard hit, we are witnessing increasing numbers of cases of undeclared labour and social fraud.

All too often, the legal requirements applicable to the secondment of workers are not observed, which is having an impact upon the salary, working hours, holiday entitlement and working conditions of seconded workers.

We have noted a growing phenomenon of undeclared labour, now affecting several member states. Social fraud is no longer only a national problem but an international one too.

As a result, due to the growth in illegal cross-border labour, the public authorities of the member states must improve their administrative cooperation, adopt strategies adapted to this new situation and thereby boost the effectiveness of the activities carried out in each country.

What is required is an ongoing and permanent strategy to combat the illegal use of the secondment of workers. It is necessary to coordinate the activities of the inspection authorities, including among others the labour inspectorates and the social security inspection systems.

The Working Conditions Authority's work concerning the secondment of workers as part of a service provision contract involves investigating, gathering information and carrying out inspection duties, concerning the working conditions of workers posted for the provision of services in Portugal or abroad.