

## Posting of workers: boosting transnational cooperation

### Cooperation in action

# Cooperation plans overview

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## Introduction

The mobility of workers has revealed tensions between the freedom to provide services within the EU, ensuring the protection of workers and fair competition.

To ensure an "adequate" protection of the rights of posted workers, the directive of December 16<sup>th</sup> of 1996 prescribes limits: the observance, during the period of posting, of a "core" of minimum protective working and employment conditions, conditions to be respected by the service provider when workers are in the "receiving country".

Observing that national frameworks are no longer sufficient to act on posting situations, Member States were required to set up transnational administrative cooperation (defined in Article 4 of Directive 96/71 / EC).

In this context, transnational cooperation became gradually equipped, with a need for labour administrations, partners in the Eurodétachement approach:

- to coordinate on both sides of the borders, by articulating fields of competence, legal tools, working methods and strategies that differ from one Member State to another;
- develop synergies with other public authorities (in particular social security and tax authorities) and the social partners.

"**Cooperation in action**" was the main part of the "Posting of workers: boosting transnational cooperation" project.

To improve the effectiveness of transnational cooperation, the objective was in particular to strengthen at the operational level:

- collaborations between stakeholders;
- through different modes of action, control and monitoring actions, but also in a complementary manner to information, awareness and prevention actions.

## A process in 3 phases

- **The co-construction** of "cooperation plans" between "sending country" and "receiving country" through the definition of "**cooperation objectives**" based on various criteria including:
  - o the flow of workers, risk assessment of fraud, examination of problematic situations such as for example large construction sites or recurring seasonal activities (agriculture), ...
  - o the expected results and impacts of the action and its feasibility.

- **The implementation of 12 cooperation plans** following the various abovementioned modes of action (all activities organised online after March 2020).

- A phase of sharing knowledge produced and initiatives carried out through **8 transnational workshops**.

With all the participants in the project and the National Liaison Officers of the European Labour Authority invited by the partner Member states, these sharing workshops were organised to address 5 cross-cutting topics:

- Improve information exchange,
- Facilitate control and monitoring and create a transnational network of professionals,
- Communicate with employers,
- Communicate and support workers,
- Build a structural and sustainable cooperation.

## 1-Improve information exchange

### 1.1 Key points

Knowledge of national legal frameworks and available sources of information,  
Information about frameworks to introduce workers from third countries and competencies of the supervisory authorities.

The asset of a cooperation plan dedicated to the issue of information exchange (relevance of information, linkage with investigations).

### 1.2 Examples of practices

**Action sheet n ° 1:** *Comparison of legal frameworks and available sources of information, focus on workers from third countries*

Cooperation plan: EE, LU, LV, NO, PL, SE

**Action sheet n ° 2:** *Exchanges around information exchanges - Questions / Answers with the Belgian side*

Cooperation plan: BE, BG

## 2-Facilitate control and monitoring

### 2.1 Key points

Bilateral agreements as a structuring tool for transnational cooperation.

Mobile applications available to labour inspectors: functionalities, accessible data and uses.

### 2.2 Examples of practices

**Action sheet n ° 3:** *Facilitate control and monitoring: bilateral cooperation agreements*

Cooperation plans: FR, PT / IE, PT / FR, IT

**Action sheet n ° 4:** *Smartphone applications available to labour inspectors*

Partners: SE, BE

## 3-Communicate with employers

### 3.1 Key points

Design and implement a communication strategy

### 3.2 Examples of practices

**Action sheet n ° 5:** *Informing businesses in Bulgaria and user companies in France in the agricultural sector*

Cooperation plan: BG, FR

**Action sheet n ° 6:** *Informing companies in Portugal in the construction and temporary work sectors*

Cooperation plan: FR, PT

## 4-Communicate and support workers

### 4.1 Key points

Tools for a strategy to reach and inform workers

### 4.2 Examples of practices

**Action sheet n° 7: A communication strategy aimed at Bulgarian workers**

**Cooperation plan:** BG, DE

**Action sheet n° 8: Informing Bulgarian workers posted to France in the agricultural sector**

**Cooperation plan:** BG, FR

## 5-Build structural and sustainable cooperation

### 5.1 Key points

Create a network of professionals on both sides of the border

The discovery of the other and the construction of reciprocal trust through discussed topics

### 5.2 Examples of practices

**Action sheet n° 9: « Key discussions » in cooperation meetings**

**The 12 cooperation plans**

**Action sheet n° 10: rely on an "integrated" cooperation strategy**

**Cooperation plans:** FR, PT

## ACTION SHEET n°1

### *Comparison of legal frameworks and available sources of information, focus on workers from third countries*

**Topic:** Improve information exchange

**Objective:** Improve the exchange of information via IMI

**Involved partners:** Labour Inspectorate of Estonia, Inspection du travail et des mines of Luxembourg, State Labour Inspectorate of the Republic of Latvia, Norwegian Labour Inspection Authority, National Labour Inspectorate (Państwowa Inspekcja Pracy) of Poland, Swedish Work Environment Authority

	<u>Estonia</u>	<u>Latvia</u>	<u>Luxembourg</u>	<u>Poland</u>	<u>Sweden</u>	<u>Norway</u>
1 National legislation applicable to posted workers	Working Conditions of Employees Posted to Estonia Act Collective agreements	Labour law Collective agreements	Labour Code Collective agreements	Labour Code Collective agreements Seconded Persons Act		

website	<a href="https://www.ti.ee/en/foreign-worker/posted-workers-and-rental-workers">https://www.ti.ee/en/foreign-worker/posted-workers-and-rental-workers</a>	<a href="https://www.lm.gov.lv/en/posting-workers-carry-out-work-latvia">https://www.lm.gov.lv/en/posting-workers-carry-out-work-latvia</a>	<a href="https://itm.public.lu/fr.html">https://itm.public.lu/fr.html</a>	<a href="https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland">https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland</a>	<a href="https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/">https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/</a>	<a href="https://www.arbeidstilsynet.no/en/">https://www.arbeidstilsynet.no/en/</a>
2 Minimum Wage	Minimum gross wage requirement at national level. Foreigner has to be paid at least the equivalent of 1.24 times the annual average gross monthly salary, as last published by Statistics Estonia.	Minimum wage requirement set by Government each year.	Minimum wage set at national level (legislation)	Minimum wage set at national level published in September and applicable from 1st of January of the following year.	No minimum wage at national level. Minimum wage set through collective bargaining agreements	No statutory fixed minimum wage requirement

## 2 Included in the minimum wage



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- <i>basic salary / basic wage</i>	Yes	Yes	Yes	Yes	<i>not applicable</i>	/
- <i>basic salary/basic wage per hour</i>	/	No	/	/	<i>not applicable</i>	Yes
- <i>seniority allowance</i>	/	No	/		<i>not applicable</i>	/
- <i>bonuses</i>	/	No	/	Yes	<i>not applicable</i>	/
- <i>holiday payment</i>	/	No	/	Yes	<i>not applicable</i>	/
- <i>special payment (foreign service premium, country allowance, assignment allowance, cost of living allowance)</i>	/	No	/	Yes	<i>not applicable</i>	/
- <i>overtime payments</i>	Yes	No	/	/	<i>not applicable</i>	/
- <i>vacation payments</i>	Yes	No	/	/	<i>not applicable</i>	/

- study leave	Yes	No	/	/	not applicable	/
- some premiums may be included subject to case by case assessment	/	No	/	/	not applicable	Yes
- individual bonuses (e.g based upon individual efforts)	/	No	/	/	not applicable	Yes

## 2.2 Not included in the minimum wage

- Per-Diems	Yes	Yes	Yes	Yes	not applicable	Yes
- Compensation of business trip	/	Yes	/	/	not applicable	/
- Reimbursement of professional expenses	/	Yes	Yes	/	not applicable	/
- Housing	Yes	Yes	/	Yes	not applicable	Yes
- Transportation costs	Yes	Yes	Yes	Yes	not applicable	Yes

- Meal costs	Yes	Yes	Yes	Yes	not applicable	Yes
- Special payments (Foreign service premium, cost of living allowance, hardship premium, country allowance, assignment allowance)	Yes	Yes	Yes (+ cost of living allowance)	/	not applicable	/
- Bonuses	/	Yes	Yes	/	not applicable	yes
- Overtime payments	/	Yes	Yes	Yes	not applicable	Yes
- Vacation pay	/	Yes	/	/	not applicable	/
- Severance payment	/	Yes	/	Yes	not applicable	/
- Night shift payment	/	Yes	/	Yes	not applicable	Yes
- Social funds payment	/	No	/	Yes	not applicable	/

- Insurance and pension schemes	/	No	/	/	not applicable	yes
<b>3 Specific legislation applicable to posted third country nationals</b>	<b>Aliens act</b>	<b>work permit</b>	<b>work permit or residence permit</b>	<b>simplified procedure with 6 third countries</b>		
<b>4 Specific OSH regulations and protective measures</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
- for persons under the age of 18		Yes	Yes	Yes		
- for pregnant women		Yes	Yes	Yes		
- for women who recently gave birth		Yes	Yes			

<b>5</b>	<b>Equal treatment and equal opportunities (non discrimination)</b>	Yes	Yes	Yes	Yes		
<b>6</b>	<b>Workers' rights as regards parenthood</b>	/	Yes	Yes	Yes	Yes	
<b>7</b>	<b>Specific regulations regarding temporary agencies</b>		Yes	Yes	Yes		
<b>8</b>	<b>National competent authority for posting</b>	Labour Inspectorate	Labour Inspectorate	Labour Inspectorate	Labour Inspectorate	Swedish work environment	Norwegian labour and welfare administration
<b>9</b>	<b>Cooperation with other national authorities</b>	Yes	Yes	Yes		Yes	Yes
	- Tax	Yes	Yes, State Revenue	Yes		Yes	Yes

		Service				
- Customs	Yes	No	Yes			
- Police	Yes	Yes	Yes		Yes	
- Border Guard	Yes	Yes	/		/	
- Immigration / Migration	/	Yes	Yes		Yes	Yes
- Social insurance	/	Yes	/	Yes	/	
- Social partners	/	Yes	/		Yes	
- National revenue administration	/	Yes	/	Yes	/	/
- National labour and welfare administration	/	Yes	/	/	/	Yes
- NGO's	/	Yes	/	/	/	Yes

Posting notification						
	via e-mail to the Labour Inspectorate, word template to be downloaded under <a href="https://www.ti.ee/en">https://www.ti.ee/en</a>	electronically in the official language to the State Labour Inspectorate	Labour Inspectorate: online tool available in english, german and french in order to get a "social badge"	to the Labor Inspectorate at an office, by post or online		not applicable
- website	<a href="https://www.ti.ee/en/foreign-worker/posted-workers-and-rental-workers/registration-and-provision-data">https://www.ti.ee/en/foreign-worker/posted-workers-and-rental-workers/registration-and-provision-data</a>	<a href="https://www.lm.gov.lv/en/posting-workers-carry-out-work-latvia">https://www.lm.gov.lv/en/posting-workers-carry-out-work-latvia</a>	<a href="https://itm.public.lu/fr/conditions-travail/detachement.html">https://itm.public.lu/fr/conditions-travail/detachement.html</a>	<a href="https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland">https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland</a>		<a href="https://www.arbeidstilsynet.no/en/safety-and-health/posted-workers/">https://www.arbeidstilsynet.no/en/safety-and-health/posted-workers/</a>
- via mail	<a href="mailto:posting@ti.ee">posting@ti.ee</a>	<a href="mailto:vdi@vdi.gov.lv">vdi@vdi.gov.lv</a>	/	/		

- <i>online tool</i>	/	<i>is planned</i>	Yes <a href="https://itm.public.lu/fr/conditions-travail/detachement.html">https://itm.public.lu/fr/conditions-travail/detachement.html</a>	Yes <a href="https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland/posting-of-workers-in-the-framework-of-the-provision-of-services-rules-and-obligations-of-employers-posting-workers">https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland/posting-of-workers-in-the-framework-of-the-provision-of-services-rules-and-obligations-of-employers-posting-workers</a>		
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11

<b>Requested information for prior notification</b>	Yes	Yes	Yes	Yes		
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#### 11.1 Employer

- <i>Name of the employer / company</i>	Yes	Yes	Yes	Yes		
---	-----	-----	-----	-----	--	--



- *Personal  
identification  
number  
or Registry code  
or registration  
number in the  
Commercial  
register*

Yes

Yes

Yes

- *Field of activity*

Yes

Yes

Yes

- *Address of the  
employer /  
company*

Yes

Yes

- *Contact  
information  
(phone, mail)*

Yes

Yes

Yes

- *Fiscal number  
(VAT)*

/

*registration  
number*

Yes

- *Prior certificaton  
(Business permit)*

/

*No, except for  
temporary  
employment  
agencies*

Yes

## 11.2 Representative of the employer

- Name of the representative (contact person)	Yes	Yes	Yes	Yes		
- Contact information (phone, mail)	Yes	Yes	Yes	Yes		

## 11.3 Recipient of the service (Contracting authority or a person for whom the posted worker works in the receiving country)

- Name of the contracting authority / person	Yes	Yes	Yes			
- Personal identification number or Registry code	Yes		Yes			
- Field of activity	Yes		No			
- Address of the contracting authority or person	Yes	Yes	Yes			

- *Contact  
information  
(phone, mail)*

Yes

Yes

Yes

#### 11.4 Recipient of the service (Representative of the contracting authority or a person for whom the posted worker works in the receiving country)

- *Name of the  
representative  
(contact person)*

Yes

Yes

Yes

- *Contact  
information  
(phone, mail)*

Yes

Yes

Yes

#### 11.5 Number of posted workers

Yes

Yes

#### 11.6 Posted worker(s)

- *Name and  
Surname of the  
posted worker*

Yes

Yes

Yes

- *Gender*

/

No

Yes

- *Id code or date of birth of the posted worker*
- *Number of the personal identification document*
- *Nationality*
- *Occupation in the country of origin*
- *Occupation in the receiving country*
- *Qualification*
- *Address of the performance of work*
- *Expected duration of posting*
- *Scheduled start of*

Yes

Yes

/

/

Yes

/

Yes

Yes

Yes

Yes

Yes

No

No

No

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

<i>posting</i>						
- <i>Scheduled end of posting</i>	Yes	Yes	Yes			
- <i>Nature of the service justifying the posting</i>	Yes	No	Yes			
- <i>Address where the posted worker will work (can be different from the address of the recipient of the service)</i>		Yes	Yes			
- <i>Place of accomodation (address, contact details)</i>		No	Yes			

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Third country national posted worker		work permit	work / residence permit	work permit		
<ul style="list-style-type: none"> <li>- <i>specific bilateral agreements to facilitate access to national Labour market and thus for posting to other MS</i></li> </ul>	/	No	/	Armenia, Belarus, Moldova, Ukraine, Russia, Georgia.		

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Requested documents to be transmitted or to be made available		storage of documents by the representative of the employer in Latvia				
<ul style="list-style-type: none"> <li>- <i>Documents translated into</i></li> <li>- <i>Copy of labor supply contract</i></li> </ul>		latvian	french, german			
		not applicable	where applicable			

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- Certificate of prior declaration issued by Ministry of Middle class		not applicable	Yes			
- A1 form		information on the A1 certificate shall be provided in the prior notification.	original or certified copy			
- VAT certificate		not applicable	issued by VAT Administration			
- Employment contractor assignment agreements		Yes	Yes			
- Part-time work or fixed-term employment contract		No	Certificate of conformity			
- Professional qualifications of the workers		not applicable	Yes			

- Payslips and proof of payment		Yes	Yes			
- Register indicating the beginning, end and duration of each workday for the whole duration of posting		Yes	Yes			
- Third country nationals (i.g. residence or work permit, Certification that the posted third country national works for an employer in a EU MS, EEA state or Swiss Confederation)		Yes	Yes			
- Copy of pre-employment	/	not applicable	Yes	/	/	/





*medical certificate*

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**Guidelines or  
Information**

## ACTION SHEET n°2

### *Exchanges around information exchanges –*

#### *Questions / Answers with the Belgian side*

**Partners :** Service public Fédéral Emploi, Travail et Concertation sociale/ General Labour Inspectorate Executive Agency

#### *How did you decide to work on the information exchange (feedback on the joint visit to Belgium and the IMI exchanges)?*

When I had the opportunity to participate in Eurodétachement with Bulgaria, I had just closed a case on a Bulgarian company which had posted around 100 workers over a period of one year. Regarding this file, I felt my **work was unfinished**.

The employer sent me some of the documents I needed to do my inspection job: mainly payslips. These **payslips were very different** from what I had to check previously. I sent another mail requesting the missing documents and at the same time started to check already received documents. During this first study the distinction between the names written in the **Latin alphabet** in the Belgian databases and the names written in **Cyrillic** on the payslips, hindered my work a lot. **I had to rely on the dates of birth to figure out who was who**. Meanwhile, the company stopped posting workers and therefore never responded to my letters again.

So participating in an exchange with my Bulgarian counterparts seemed to me as an opportunity to develop my approach to the Bulgarian files, **to ask questions and to meet the persons that could help me** in the future.

#### *What difficulties and what opportunities for improvement were revealed?*

During this exchange I met my counterparts in Brussels. On this occasion, the Bulgarian team accompanied us on a construction site. During this inspection, they informed us that the documents presented were **false A1 certificates**.

This is in fact the main problem that we encounter because if the workers are not of Bulgarian nationality and they are without a work and residence permit, then the workers are in an illegal situation. At this point I have to determine who is the "user / employer" of these workers.

To do so, before, I would have made an IMI request with the list of workers identified at work to know if they are hired by the company mentioned on their Limosa declarations.

Our Bulgarian counterparts explained to us that often in IMI requests, they receive a list of workers who are **not identified with their 3 names and their date of birth** and that therefore it is almost impossible to find these workers.

But if the workers are not Bulgarians and we do not have these three names, what if they are extra Europeans (Albanians, Macedonians ...)?

***Based on the cases studied, have you identified any complementary action patterns?***

Today, to solve the “three names” issue that we rarely face, we **go in the opposite direction**: rather than asking if Mr. X works for company Y we ask if we can have the list of all the workers of company Y and then we try to find in this list Mr. X that we observed at work.

More importantly, I take a picture of the identity documents / passports / residence permits (in order to **gather as much information as possible**).

During the inspection, the Bulgarian team told us they were surprised by the diversity of languages spoken by our team. We only speak in French with the construction site supervisors and we shared our common experiences with construction site inspections.

***How did you work together? (Method: identification of situations, joint visit, feedback on IMI exchanges, etc.)***

In the case of the construction site visited jointly, the worker had a work contract with a Bulgarian company X. The worker was of Macedonian nationality. Our counterparts explained to us that in this case, if the worker applies for Bulgarian citizenship, while waiting for his application to be accepted or refused, he receives a temporary number which allows him to create certain documents which may become valid after his naturalization. Company X used this bias to hire the Macedonian worker and send him **to work in Belgium where there is less chance to discover his irregular situation**. As he was in possession of a false A1 certificate during the inspection, I could not establish the infringement. **Without help from the "sending country", we cannot determine if an A1 certificate is a fake.**

Currently I face **control impediment** and no response from the employer. First, I do not know if the address we have is just a **fictitious address** (letterbox) or if the employer **do not want to answer**.

I do not know to what extent it will be possible to ask our Bulgarian colleagues if they can deliver our letters, because I am convinced that an employer will respond more quickly to his own administration and fear the negative impact to come.

Ideally, if we manage to have wage recovery, the "sending country" will be able to collect contributions on these wage recovery paid to workers.

We see that **workers are increasingly posted for long periods** and move from one company to another to extend their periods of posting. **In the long term, our collaboration will bear fruit and will benefit everyone.**

***How does the setting-up of a professional network facilitate the exchange of information, control and monitoring?***

As I explained just before, **without mutual help our findings are worthless**. Dialogue allows understanding and **implementation of strategies**, to see what works and what does not work.

I would like to thank my counterparts who constantly help me with my Bulgarian cases.

After getting to know each other, we dare to ask for more than the simple protocol would allow.

I hope that my counterparts will not hesitate to call on me and my colleagues if they have questions or if it is necessary to find solutions to the problems they encounter. I don't have the answer to all the questions but I'll find out who does and we'll get back to you.

## ACTION SHEET n°3

### *Facilitating control and monitoring: bilateral cooperation agreements*

**Objective:** organise and secure work processes within an institutional framework

**Relevant cooperation plans and signatories:**

- France-Portugal : Direction Générale du Travail/ Autoridade para as Condições do Trabalho
- Irlande-Portugal : Workplace Relations Commission/ Autoridade para as Condições do Trabalho
- France-Italia : Direction Générale du Travail/ Ispettorato Nazionale del lavoro

**Purpose of bilateral agreements:**

**FR-PT:** At the end of a cooperation plan implemented during the 4<sup>th</sup> Eurodétachement project, a "French-Portuguese administrative cooperation arrangement" was signed on November 17, 2017. This cooperation agreement aims to be practical and operational, to overcome the difficulties observed in the field and to control work situations together more effectively.

A Steering Committee has been set up and a periodicity of meetings established. During steering committee meetings, working methods are defined and activities for the year are planned together, based on feedback from actions already undertaken jointly: inventory, strategic focus, steering, adaptation of organisations and operational implementation.

**IE-PT:** Memorandum about the exchange of information on posting (nature of information and competent authorities) signed on 20 December 2019.

**FR-IT:** Signature of a "joint declaration of partnership on cooperation in the control of the transnational posting of workers and the fight against illegal employment".

The revival of existing administrative cooperation and support for more operational cooperation is sought through several aspects:

- ✓ promotion of exchanges of information between liaison offices and appointment of liaison offices,
- ✓ processing of IMI requests,
- ✓ improvement of reciprocal knowledge, planning of visits and joint controls,
- ✓ management of information actions for companies and workers,
- ✓ setting-up of a dialogue and monitoring committee.

### **An example of a joint work programme**

#### **FR-PT cooperation agreement steering committee**

*Programme of activity agreed for 2019:*

- *Development of concerted or joint inspections;*
- *Organise in Lisbon during spring 2019 an information seminar for companies and social partners on certain points of the regulations relating to posting in France based on feedback from Porto in January 2018. Involve the labour inspection work of Belgium.*
- *Develop an information document for French companies posting employees to Portugal.*
- *Organise a meeting of local correspondents, involving agents from the liaison offices too.*
- *Mutually inform each other about companies of European size and their practices.*
- *Proposal for a visit by the Director General of Labour to Portugal to deepen mutual knowledge of the management and steering methods of our labour inspection systems to improve the effectiveness of our actions in the fight against illegal work and posting fraud.*
- *The next steering committee meeting will be organised in Portugal in 2019.*

## ACTION SHEET n°4

### *Smartphone Application for labour inspectors*

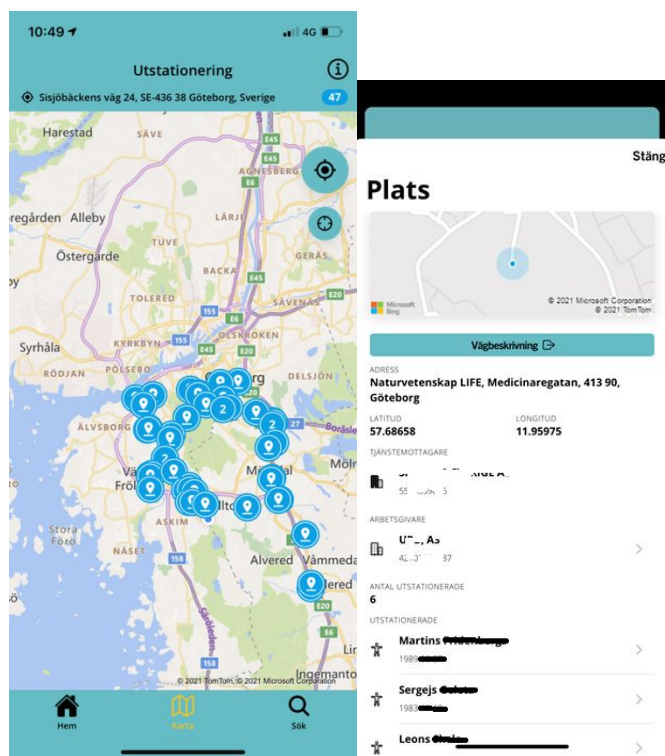
**Objective:** facilitate control and access to data, develop a fraud risk assessment approach

**Relevant partners:**

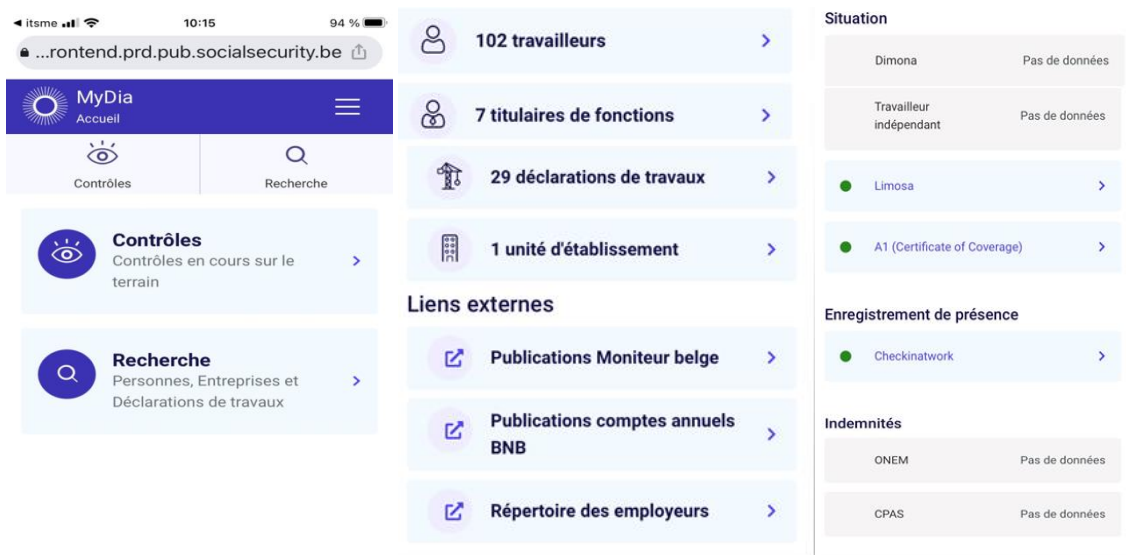
- Service public Fédéral Emploi, Travail et Concertation sociale-Belgium
- Swedish Work Environment Authority

**Mobile applications :**

**Utstationering (SE):** with inputs from the "report a posting" database, database filled in by employers who post workers to Sweden: employer identification, client, worker identification, duration and place of posting, worker status, contact person.



**Itsme MyDia (BE):** inputs from Dimona data base (immediate declaration for employment), LIMOSA (declaration of foreign workers), A1 forms, construction works declarations, Checkinetwork (daily registration of attendance). Link to external databases (Belgian Monitor publication, BNB annual accounts publication, employers register, etc.)





## ACTION SHEET n°5

### *Informing employers in Bulgaria and user companies in France in the agricultural sector*

**Partners:** General Labour Inspectorate Executive Agency/ Direction Générale du Travail

**Other stakeholders:** PODKREPA (BG), NSSI (BG), Employment agency (BG), anti-trafficking commission (BG) FGA CFDT (FR), MSA (FR)

#### **The framework**

The cooperation plan is part of an administrative cooperation agreement between Bulgaria and France signed on May 30, 2008 and an operational implementation memorandum since June 7, 2017.

The implementation of the cooperation framework means:

- a steering committee which meets alternately in each of the two Member States once a year, established to help both authorities to know better each other and to discuss problems encountered on both sides;
- carrying out joint inspections in France and Bulgaria since 2018,
- An information flow and a cross-checking process between inspection authorities.

#### **The situation in the agricultural sector of the “receiving country”**

The agricultural sector is characterised by a high concentration of posted workers (in 2019, 28% of employees according to the declarations provided for this sector) for a small number of foreign companies (3.3%, mainly Bulgarians posted workers by Bulgarian temporary work companies).

In 2018, 40% of posted workers declarations in the Centre-Val de Loire region concerned Eastern European countries and mainly Bulgaria (31.4% in 2018). The number of postings has been falling since the second half of 2019, a trend which is confirmed in 2020, and the direct employment of Bulgarian workers by farmers in France is tending to increase.

#### **The findings at the origin of the action**

The labour inspectorate of the region Centre-Val de Loire (DIRECCTE Val de Loire) have noted, in particular in the agricultural sector, a strong presence in 2 places (“départements”) of Bulgarian employees working for temporary work agencies. Joint inspections were carried out in France and continued in Bulgaria. However, it appeared necessary to be able to inform employees, user companies and Bulgarian employers through a structured action.

**The key idea is to talk to all the relevant stakeholders.**

## The design of the cooperation plan

From the outset, the partners want to involve the unions FGA-CFDT (FR) and Podkrepa (BG), which for several years have been carrying out bilateral cooperation actions together. They also extend the action to public authorities: the social security organisation in agriculture in France (MSA), in Bulgaria the public authorities in charge of social security (Revenue Agency and NSSI), the tax administration (Revenue Agency), the employment agency and the anti-trafficking commission.

## Cooperation plan implementation

Initial work programme	Implementation and modalities
Information meeting for Bulgarian workers in September 2019 in France	Two meetings organised by the DIRECCTE Centre Val de Loire with the participation of the Executive Agency of the Bulgarian General Labour Inspectorate, the FGA CFDT and Podkrepa unions and the MSA
Employers meeting in spring 2020 in Bulgaria	Health crisis, postponed to 03/23/2021, as a webinar
Bulgarian workers meeting in spring 2020 in Bulgaria	Postponed with different modalities (see action sheet n°9)
User undertakings meeting in France spring 2020	Webinar on 04/12/2021

## The information meeting of Bulgarian employers

- **Preparatory phase:** the Executive Agency of the Bulgarian General Labour Inspectorate carries out a survey of companies known to post workers to France

- **The agenda of the meeting** includes:

- the results of the survey carried out among Bulgarian companies,
- the presentation of the rules applicable in France in terms of posting,
- the presentation of the Bulgarian legal framework with, in particular, differences between a **“placement agency” in Bulgaria and a “temporary work agency” in France.**

## ACTION SHEET n°6

### *Informing companies in Portugal in the construction and temporary work sectors*

**Partners :** Direction Générale du Travail (FR) / Autoridade para as Condições do Trabalho (PT)

**Other stakeholders:** Service public Fédéral Emploi, Travail et Concertation sociale (BE), Inspection du travail et des mines (LU), Social Security Institute (PT), UGT-União Geral de Trabalhadores (PT), AICCOPN-Associação dos Industriais da Construção Civil e Obras públicas (PT), DG for Employment, Social Affairs and Inclusion (European Commission), Catholic University of Porto (PT), Portucalense Infante D. Henrique University (PT), Tilburg Law School (J Cremers), ACOSS

#### **Context of the action**

The construction and temporary work sectors are target sectors for the partners, Portuguese companies in the sectors posting employees throughout France.

At the end of previous Eurodétachement project, a first information meeting is organised by the Authority for Working Conditions (ACT) in January 2018 targeted at companies in the construction sector in the Porto region with the participation of the General Directorate of Labour (DGT). The purpose is to explain the rules relating to posting, taking into account these sector specificities, on both sides of the border, in terms of wages and paid leave.

#### **The organisation of an international information seminar on posting**

Within the framework of an "integrated" cooperation strategy built by both partners during the design phase of the cooperation plans (see [action sheet n°10](#)), the awareness of Portuguese companies is broadened and pursued with an information seminar organised in Lisbon by the ACT:

- **Objective:** Initiate a forum for sharing and disseminating information on the transnational mobility of workers and companies from different angles. Involve the labour administrations of Belgium and Luxembourg, the social partners, social security and the academic world.

- **Audience :** 140 participants from various professional environment :

Representatives of companies in the construction sector,  
Representatives of temporary work agencies,  
Businessmen,  
Senior executives of the Social Security Institute (ISS),  
Senior executives of the Institute of Employment and Vocational Training,  
ACT inspectors,  
University researchers,  
Representatives of law firms and legal advisers.

- **Speakers and topics covered:**

- The role of Social Security in the transnational mobility of workers: the A1 model and the modalities of posting (ISS)
- Posting of workers in France, Belgium and Luxembourg: the role of labour inspectorates - Legal framework, formalities, tools and control – DGT (FR); SPF Emploi et Concertation sociale (BE); ITM (LU); ACT (PT). Moderation (project team)
- Transnational mobility of workers and companies: new challenges – Jan Cremers, Joana Carneiro and Ricardo Condeço (academic researchers) Moderation (ACT)
- The role of the social partners: employers' associations and trade unions – Vanda Cruz (UGT), Giorgio Casula (CGTP-IN), Isabel Rodrigues (AICCOPN). Moderation (ACT)
- The rights and duties of workers and companies posting to Portugal (ACT)
- How to have a sustainable activity in France: setting up and hiring (DGT)
- Recent developments: labour mobility (European Commission)

- **Seminar outcomes (ACT)**

**Main strength**

- *To address different topics from different perspectives about shared issues allowed a holistic view of the various challenge when we talk about posting of workers and companies,*
- *The different angles made it possible to attract a diverse and large audience,*
- *The seminar covered a topic that is not usually addressed in these information sessions on transnational mobility of workers and companies: the tax question. It aroused great curiosity,*
- *Labour inspectorate and the social security sitting together at the same table, sent a positive message, in terms of prevention,*
- *As each partner is invited to express his/her point of view during the seminar, it publicly demonstrates to the participants that relevant European offices and national counterparts do communicate, which sends a positive outward message in terms of prevention,*
- *From a regulatory point of view, the seminar was a rich moment of dissemination of knowledge and this approach encourages interested participant to go further and to look for information,*
- *According to speakers' comments, the seminar turned out to be for themselves a forum not only for sharing but also for learning.*

### **Weaknesses**

*The richness of this seminar caused its weakness: the insufficient time to explore each topic and the limited time to answer the numerous questions.*

*We underestimated the number of people who would travel to attend the seminar; many registration requests had to be refused.*

*We learn from this experience*

### **- Impact indicators (ACT)**

- A Flyer designed by France translated into Portuguese made available to the audience the same day
- Since the seminar, requests for information on posting have greatly increased, using the dedicated form<sup>1</sup> (more than 150)
- The number of requests by email for the presentations (so many requests that it was decided to share the presentations online)
- The number of leaflets distributed

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<sup>1</sup> by the ACT team of professionals dealing with posting issues

## ACTION SHEET n°7

### *A communication strategy aimed at Bulgarian workers*

**Objective:** Prevention of labour rights violations through a joint information action for posted workers from Bulgaria

**Involved partners:**

- General Labour Inspectorate (GLI) Executive Agency-Bulgaria
- NGO Arbeit und Leben (AuL) Berlin

**Work steps:**

- Building cooperation action (face-to face activity in Bucharest)
- Exchange meeting at the Arbeit und Leben Berlin in participation with local institutions (SOKA BAU, OSH-authority)
- Preparation of information brochure (remote activity)
- Creation of communication video in BG/DE (real case from home care sector, presentation of BEMA and the brochure, contact information)
- Dissemination plan implementation: press release, distribution of the printed copy of the brochure in Regional inspectorates in BG and Labour Agency offices, Embassy Berlin, Bulgarian Consulates in Germany, Arbeit und Leben consultation offices and partner organisations, Supermarkets. Pdf copy of the brochure on-line: websites of GLI, AuLs offices, Social Media. Video: social media and Youtube.
- Bulgarian inspectorate information meeting with 42 participants (regional labour inspectors, national level, Arbeit DE consultants, social attaché from the Bulgarian embassy in Berlin)
- Establishing of partnership in the frame of Bulgarian-German government ministry agreement
- In parallel, during 2 years: jointly work on real cases of workers complains and research and exchange of information about: inquiries about issuing of A1 in BG, wages in medical sector in DE, collective labour agreement in construction DE, online advertisements for jobs in DE, quarantine as paid sick days in BG.

Communication video: <https://youtu.be/DTdzeZBhqH4> and <https://youtu.be/gv967agyCil>



Picture of the brochure (printed and pdf):

**НА ГУРБЕТ:**

Моите права като командирован работник в Германия

**строителство**

**социални грижи**

**транспорт**

**BEiMA**  
Berliner Beratungszentrum für Migration und Arbeitsrecht

**СТРОИТЕЛСТВО**

► Който трябва да пече като строител? Помощник в Германия?

Общ строителен работник-помощник получава задължителната за всички минимална работна заплата за група 1. За тази позиция не се изисква квалификация.

Общите работници извършват обикновени и неквалифицирани дейности, като сортиране и съхраняване на строителни материали, помощ при изграждане на скелета, сесване на бетон, поставяне на гипсокартон и изолационни материали, изолна работа без машини, работа с машини, които могат да се обслужват без квалификация.

Минималното заплащане по колективния трудов договор за група 1 е:

от 01.03. 2019:	12,20 € бруто
от 01.04.2020 -31.12.2020:	12,55 € бруто

Минималните заплати в строителството редовно се увеличават, затова проверете актуалните ставки и други тарифни договори на: [https://www.zdkt.de/DE/Fachthemen/ArbeitsMindestlohnbedingungen/Mindestlohn-AE-nIG-Lohnuntergrenze-AU-nIG-Branchen-Mindestlohn-Lohnuntergrenze/uebersicht\\_branchen\\_mindestloehne.html?nn=305276](https://www.zdkt.de/DE/Fachthemen/ArbeitsMindestlohnbedingungen/Mindestlohn-AE-nIG-Lohnuntergrenze-AU-nIG-Branchen-Mindestlohn-Lohnuntergrenze/uebersicht_branchen_mindestloehne.html?nn=305276)

► Който трябва да получава като строителен работник в Германия?

Строителите саботнически получават задължителната за всички

Таблица за изработени часове

Име : Тилия Тилия

Дата	начало	Край	Работно време (или заплате за отсъствия)
01.05.2020	6:00	00:30	18 часа

Най-добре е да си записвате на допълнителен лист всеки ден какви дейности сте извършвали и колко време са Ви отнемали. Колкото по-подробно е описанието, толкова по-добре се приема това за доказателство. Помолете лицето, за което се грижите или членовете на семейството му да подписват всеки ден Вашия лист с дейности. Така можете да докажете работното си време, да пресметнете извършените часове и да поискате от работодателя да Ви ги заплати. Можете да използвате и мобилното приложение на Федералното министерство по труда и социалната политика за засичане на работно време: <https://github.com/Bundesagentur-fur-arbeit>

За да получите иск за получаване на минималната работна заплата, трябва да се обърнете към трудовия съд в населеното място, където работите. Нито една институция в Германия не може да направи

### Added value of the cooperation plan for involved stakeholders

This cooperation plan had a double impact: information of target audience and capacity building of involved stakeholders.

- Transnational networking with the participation of inspectors and Arbeit und Leben advisors
- Identification of relevant issues on the basis of experience of two countries and two different levels: NGO and public authority
- Dissemination of brochure in the posting country and hosting country
- Is it useful to communicate to workers about the existence of cooperation and why?
- Trusting more – the image of GIT is very positive in Bulgaria and it transfers to AuL
- Increase of credibility of both institutions for posted workers
- Other stakeholders: Regional labour inspectorates, NGOs in BG and DE, embassy and consulates, trade unions, labour institutions in DE (Soka Bau), occupational and safety authority Berlin



## ACTION SHEET n°8

### *Informing Bulgarian workers posted in France in the agricultural sector*

**Objective:** Empower workers to effectively assert their rights

**Involved partners:** General Labour Inspectorate (GLI) Executive Agency/ Direction Générale du Travail

**Other involved stakeholders :** PODKREPA (BG), NSSI (BG), Employment agency (BG), Anti-traffic Commission (BG), FGA CFDT (FR), Mutualité Sociale Agricole (social security in agriculture-MSA-FR), DIRECCTE Centre Val de Loire (region level of Labour inspectorate)

**Action framework:** cooperation plan BG-FR, see also [action sheet n°5](#)

#### **Chronology and work steps :**

- Printed invitation distributed by French labour inspectors to posted workers, accommodated in collective accommodation close to meeting places, and sent by proper mail to the declared address of posted workers in France (with the MSA),
- Field action carried out on the morning of the meetings by the trade union organisations (French and Bulgarian),
- Digital invitation spread by trade unions and posted on the website of the Bulgarian labour inspectorate,
- Web page in Bulgarian designed on the Direccte Centre Val de Loire website with various documents: invitations, letter explaining the purpose of the meetings, information brochure, etc.,
- Two information meetings for Bulgarian workers in their native language (BG-FR interpreting) in two relevant locations (French *départements*) in the Centre Val de Loire region, organised on 24 and 25 September 2019, in the evening, as close as possible to the usual workplaces,
- Information documents translated into Bulgarian provided during the meetings: brochure on labour law regulation and means of action for employees as well as the provisions of relevant regional collective agreements. Documents posted on the Direccte Centre Val de Loire website,
- Satisfaction questionnaire in Bulgarian completed by the attending workers (37 responses),
- Press conference to support the action,
- Technical comparative law sheets on French and Bulgarian regulations for inspection authorities to enable them to respond to requests for information,
- Cancellation of the face-to-face information meeting project (COVID) for workers in Bulgaria, applicants for a job in France,
- Joint design of a brochure about both topics: the status of posted worker and employee in direct employment,
- Online meeting on March 25, 2021 with all the relevant stakeholders able to disseminate the brochure (French and Bulgarian Labour Inspectorate, Mutualité Sociale Agricole, French and Bulgarian trade unions, Bulgarian Employment Agency and the Office for the Fight against Human Trafficking in Bulgaria),



## Picture of the brochure



## ACTION SHEET n°9

### « Key discussions » in cooperation meetings

	BE-BG	BE-IE	BE-IT	BG-DE	BG-FR	DE-NO	FR-IT	IE-PT	FR-PT	NO-PT	PT-SE	EE-LU-LV-NO-PL-SE
Labour market, posting statistics, sectors concerned						x	x	x	x	x		
Fraud encountered	x			x	x		x		x		x	x
Labour inspection system: structure, functions, powers, activities, components, competences, missions	x	x	x	x	x	x	x	x	x	x	x	x
Posting specific regulation (in particular administrative procedure)	x	x	x	x	x	x	x	x	x	x	x	x
Remuneration: components, payslips mentions	x	x	x	x	x				x			x
Posting allowances	x		x	x	x				x			x
Focus on payslips information	x	x	x	x	x				x			x
Employment of third-country nationals (legislative framework / applicable documents)	x											x
Focus on collective labour agreements		x	x		x				x			
Focus on control methodology and tools (particularly databases)		x	x		x				x			x
Focus on current files requiring cooperation	x	x	x	x			x		x			
Feedback on previous IMI exchanges	x		x				x		x			x
Collaboration with social security (A1 issue, framework)		x	x		x				x			x
Focus on occupational health and safety, accidents at work			x		x		x				x	
Focus on placement agencies					x							
Focus on other forms of mobility (direct employment, establishment in the sending country, etc.)					x				x			
Focus on other forms of employment (platforms, self-employed, etc.)							x					

### Other stakeholders involved during the cooperation meetings

BE - B G	BE-IE	BE -IT	BG-DE	BG-FR	DE-NO	FR -IT	IE-PT	FR-PT	NO-PT	PT-SE	EE-LU-LV-NO-PL-SE
	Irlande: welfare, Department of Social Protection		Regional labour inspectorates, NGOs in BG and DE, embassy and consulates, trade unions, labour institutions in DE (Soka Bau), occupational and safety authority Berlin	PODKREPA (BG), NSSI (BG), employment agency (BG), Anti traffic Commission(BG ) FGA CFDT (FR), MSA (FR)	Amt für Arbeitsschutz, DGB, Wolff & Müller Holding GmbH & Co. KG, Dolmetscherin, SOKA-BAU, Deutsche Rentenversicherung Nord, Behörde für Arbeit, Soziales, Familie und Integration, centre for foreign workers in Trondheim		Sindicato dos Trabalhadores das Indústrias Transformadoras, Energia e Atividades do Ambiente Norte (SITE Norte) - CGTP- USP, UGT- Porto, Associação dos Industriais da Construção Civil e Obras Públicas, APESPE RH – Associação Portuguesa das Empresas do Sector Privado de Emprego e de Recursos Humanos	Service public Fédéral Emploi, Travail et Concertation sociale (BE), Inspection du travail et des mines (LU), Social Security Institute (PT), UGT- União Geral de Trabalhadores (PT), AICCOPN-Associação dos Industriais da Construção Civil e Obras públicas (PT), DG for Employment, Social Affairs and Inclusion (European Commission), Catholic University of Porto (PT), Portucalense Infante D. Henrique University (PT), Tilburg Law School (J Cremers), ACOSS	EURES- European employment services, ELA, AHS	AICCOPN- Association of Civil Construction and civil engineering Industries, ELA, UGT - General Union of Workers, EURES - European employment services, G.J.R. - Pirotecnia e Explosivos, S.A, ANIET- National Association of Extractive and Manufacturing Industry	Border Guard Unit of Rzeszow

## ACTION SHEET n°10

### *Design and implementation of an “integrated” transnational cooperation*

**Partners :** Direction Générale du Travail (FR) / Autoridade para as Condições do Trabalho (PT)

**A cooperation plan designed to articulate/alternate in successive stages different kind of actions**, which represents an operational implementation of the “Franco-Portuguese administrative cooperation arrangement” concluded in November 2017.

Previous actions (4th Eurodétachement project 2015-2017):

- **Control and monitoring**  
“Inspection of a Portuguese company operating in France on a construction site”
- **Information/awareness of service providers in Portugal**  
“Design of an information brochure and seminar with companies in the construction sector in the Porto region in January 2018”

Partners wanted to continue the cooperation and jointly defined the following stages:

- **Exchange of "local correspondents"**

The France-Portugal bilateral agreement is quite special because operational cooperation leans on a group of local correspondents planned since the beginning to explore further some topics.

Exchange meeting (Lisbon December 2019) on concrete issues faced by professionals: understanding a Portuguese payslip, regulation specificities (remuneration, temporary work, etc.), exchange on practical cases, organisation of liaison offices, monitoring of work accident. The social security representatives are involved for half a day.

- **2<sup>nd</sup> information/awareness seminar for companies(Lisbon January 2020)** (see [action sheet n°6](#))

Larger target audience.

The contribution of other Portuguese public authorities (social security, tax authority) and partner administrations of the project (BE, LU) helps participants to better understand national frameworks in order to comply with posting declaration process in each Member State, first and foremost in Portugal with the ACT, in France through SIPSi application, in Belgium through LIMOSA and in Luxembourg via a specific office.

### **The extension of the 2020 cooperation**

- Involvement in a first coordinated joint inspection with support from the European Labour Authority
- Steering of local correspondents’ network with, for 2021, a focus on the issue of temporary work companies and fake A1 certificates.

## Impact indicators/sustainability factors

- A relationship based on trust that has grown over time
- The will to work together and progress with a shared goal of protecting the fundamental rights of workers
- A quality of exchanges between the liaison offices,
- The local correspondents 'network dynamics
- Facilitation of the exchanges of information,
- Problem solving enhanced by a better mutual understanding of the regulations applied to the situations mutually encountered
- Collaboration with other public authorities

### **"Ideal-type" scheme of an "integrated" transnational cooperation strategy**

#### **- Informing/raising awareness/preventing**

*Communication strategy with employers and workers*

#### **- Equipping local networks**

*Skills improvement of professionals on both sides of borders*

#### **- Controlling and monitoring**

*Assessment of the impact of the action*

## Project partners

### Public authorities :

**Belgium (BE):** Service public Fédéral Emploi, Travail et Concertation sociale  
**Bulgaria: (BG)** General Labour Inspectorate Executive Agency  
**Croatia (HR):** Ministry of Labour and Pension System  
**Estonia (EE):** Labour Inspectorate of Estonia  
**France (FR):** Direction Générale du Travail  
**Ireland (IE):** Workplace Relations Commission  
**Italy (IT) :** Ispettorato Nazionale del lavoro  
**Latvia (LV):** State Labour Inspectorate of the Republic of Latvia  
**Luxembourg (LU) :** Inspection du travail et des mines  
**Norway (NO):** Norwegian Labour Inspection Authority  
**The Netherlands (NL) :** Inspectorate SZW, Ministry of Social Affairs and Employment  
**Poland (PL) :** National Labour Inspectorate (Państwowa Inspekcja Pracy)  
**Portugal (PT) :** Autoridade para as Condições do Trabalho  
**Romania (RO) :** Labour inspection  
**Sweden (SE) :** Swedish Work Environment Authority

### NGO :

**Germany (DE):** Arbeit und Leben Berlin  
**Germany (DE) :** Arbeit und Leben Hamburg

### European social partners :

- European Trade Union Confederation - **CES-ETUC**
- European Federation of Building and woodworkers - **EFBWW**
- European Federation of Food, Agriculture and Tourism – **EFFAT**
- European Construction Industry Federation – **FIEC**
- World Employment Confederation-Europe- **WEC Europe**

### Project team:

INTEFP – ASTREES - Johannes M.B. Cremers (Tilburg University)