

## Control, monitoring and administrative cooperation in Romania

**Daniela GEORMĂNEANU, Labour Inspector**

Tel: 004021 302 70 56,

Email: [daniela.geormaneanu@inspectiamuncii.ro](mailto:daniela.geormaneanu@inspectiamuncii.ro)

**Labour Inspectorate** website:

<http://www.inspectmun.ro/site/>

### 1. Knowledge of posting situations

In Romania, companies are required to submit a worker posting communication to the *Territorial Labour Inspectorate* in the district where the company will intervene. This communication must be written in Romania and be sent by the first day of activity at the latest.

Companies must also notify the *Territorial Labour Inspectorate* of any change in information concerning the posting situation within five days of this change.

If the company posts a foreign worker from a country which is not a member of the European Union (EU) or the European Economic Area (EEA), it must supply a declaration stating that the employee fulfils the legal conditions of employment in EU or EEA member countries where the foreign company is established.

The declaration is filled out in Romanian and sent to the *Territorial Labour Inspectorate* in the district where the company will be working at least five days before the start of activity by the employee from a non-EU or non-EEA member country when the employee is posted on Romanian territory.

We do not have information on the number of 101/A1 certificates because they are provided by another public institution: the National Public Pension Fund.

### 2. Exchange of information with other Member States

The **Labour Inspectorate** is the liaison office which ensures an exchange of information with competent authorities in EU or EEA member countries.

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## **IMI pilot project**

The Labour Inspectorate was named national IMI coordinator.

For this mission, the institution is in charge of keeping watch on the general operation and proper functioning of IMI at the Romanian national level, including the identification, registration and training of competent authorities on the tool.

Within the framework of administrative cooperation, the Labour Inspectorate responds to motivated requests for information from institutions in the different member countries on employee posting carried out within the context of providing transnational services, including in cases of abuse or of transnational activities which are thought to be illegal.

The Romanian Labour Inspectorate has designated six people to be users of the interior market information system (IMI): Daniela GEORMĂNEANU, Eduard NICOLAU, Daniela MIRCEA, Simona NEACȘU, Mihaela ILIE, who are labour inspectors for the Labour Relations Control Service (LRCS), and Maria MOTĂNTĂU, head of LRCS in the Labour Relations Control Department.

As a liaison office, the Labour Inspectorate has received the following numbers of requests for information via IMI: 2007 = 4, 2008 = 26, 2009 = 20, 2010 = 38, 2011 = 90 and 2012 = 126. Over 80% of requests come from France, followed by Belgium, the Netherlands, Italy and Austria.

Requests for information concerned Romanian companies which had posted Romanian citizens in the EU for different activities, except in the road transport sector.

In 2012, the labour inspectorate sent ten requests via the IMI system to Hungary, Germany, Cyprus, Slovakia and Norway.

Most of the questions formulated through IMI concerned individual work contracts for posted workers, the payment of a minimum wage, the payment of the posting allowance, the duration of working hours, rest periods, the payment of overtime and the payment of social services.

Certain key questions can reveal a false posting activity in the following cases:

- The company which posts workers does not have significant activity on Romanian territory;
- The employee was employed before posting;
- Posting was established for a function other than the one related to the company's legal activity;
- The hiring date corresponds to the posting date for companies which are not temporary work agencies.

Deadlines requested for carrying out verifications and providing answers to the questions asked are realistic, in general 30 days.

The most common questions by public authorities concern date of hiring, date of posting, function upon hiring and function for which the employee was posted if they are different, the amount of posting compensation and the existence of the A1 form.

Questions are also asked about the company's situation at the time of control (active, insolvent? – if yes, since when is the company insolvent?), data on the identity and domiciliation of the company administrator. These questions imply an investigation, possibly by the police.

In this case, the IMI system and form do not take into account situations where two government authorities who are in contact agree to extend the response deadline. *(In this respect, it would be preferable for the system to allow changing the initially agreed-upon deadline.)*

### **The link between the liaison office and the bodies in charge of control**

The Labour Inspectorate includes 42 *Territorial Labour Inspectorates* in charge of verifying and controlling companies which post Romanian workers in the EU or receive EU employees posted in Romania. <http://www.inspectmun.ro/site/Inspectorate/inspectorate.html>

After adoption of the Directive of Application of Directive 96/71/CE, the *Territorial Labour Inspectorates* will use the IMI system to establish a joint general framework for optimally efficient management of information exchange and the measures and mechanisms of control necessary to implement the Directive.

### **3. Collaboration at the national level**

The labour inspectorate collaborates with all other government institutions. To do this, it has drawn up cooperation protocols aiming to carry out joint control actions with the Financial Police, the Inspectorate General of Romanian Civil Police, the Inspectorate General of Romanian Military Police, etc.

Coordination is implemented through information exchange and regular meetings. The Labour Inspectorate has also drawn up protocols with the social partners in the area of labour relations, without, however, specifically aiming at worker posting.