

BRIEFING

Requested by the Employment
and Social Affairs Committee



European Labour Authority: Workshop summary report

KEY POINTS FROM DISCUSSION

Enhanced enforcement: According to the Commission, building trust through cooperation of Member States is key, using as legal basis the enforcement directive to the directive concerning the posting of workers and the revised regulations on social security coordination. Others would like to see a stronger legal mandate for cross-border inspections using, for example, experience from consumer protection and legal rules on cooperation in criminal matters (Art. 82, 83 TFEU as well as Chapter VI from the Services Directive). Enforcement should equally include a concept or guidelines for a fining policy.

Social security coordination: Views differ regarding the Commission's plan for reorganisation, i.e. to keep the Administrative Commission at the Commission while the ELA absorbs the related Conciliation Board and other bodies into a broader ELA mediation mechanism. Supporters see an opportunity for more effective work across fields corresponding to the reality of complex fraud. From a social security perspective, adverse effects may prevail as well-established cooperation mechanisms, procedures and exchange of specialised experience will be disrupted.

Supporting labour mobility (EURES): Shifting EURES management (EURES Coordination Office) and the EURES portal (except for technical IT work) to the ELA could help to better integrate other aspects of labour mobility into the EURES work (portal, trainings). However, this comes at a price: Coordination will become more complex adding ELA as third player to the existing cooperation between the Commission and the Member States. Split organisational responsibilities for the portal also require additional coordination, for example, with the help of an ELA liaison office in Brussels. Regardless of the management setup, the quality of EURES work largely depends on the level of resources for horizontal support and monitoring, on the willingness of Member States, and on the capacities of employment services.

Profile and governance: The proposed agency shows a mixed profile combining supporting, operational and supervisory tasks. With a view to its scope, it remains an open question whether ELA could be more effective as a focused enforcement body with supervisory functions or as a broader agency responsible (visible and accountable) for all dimensions of labour mobility including as unique feature direct services for individuals and employers. Other points that may need further consideration are: the name (agency or authority), the composition and appointment of management bodies (including the role of the European Parliament), and the design of a more concrete business concept to make coordination, cooperation and completion of tasks more operational and systematic. Even if not necessarily forming part of the agency's founding regulation, this is considered a precondition to ensure that the ELA will be up and running in 2019 as envisaged by the Commission.



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PE 619.007 - June 2018

EN

Introduction

This report summarises presentations and discussions from the workshop “European Labour Authority” held on 24 May 2018 at request of the Employment and Social Affairs Committee. It combined an exchange on the Impact Assessment and on the Initial Appraisal by the European Parliament with a panel of experts focusing on different dimensions of the Commission proposal for a European Labour Authority. In addition to this summary report, a number of briefings have been produced for the Workshop:

[European Labour Authority: Profile and Governance](#) by E. Vos

[European Labour Authority and Enhanced Enforcement](#) by J. Cremers

[European Labour Authority and Social Security Coordination](#) by St. Giubboni

[European Labour Authority and Support for Labour Mobility \(EURES\)](#) by V. Ludden

[European Labour Authority: Structures and tools](#) by S. Kraatz

Background: Scope and objectives of the European Labour Authority (ELA)

On 13 March 2018, the European Commission published its proposal for a Regulation of the European Parliament and the Council on establishing a European Labour Authority. This new decentralised agency shall “assist Member States and the Commission in matters relating to cross-border labour mobility and the coordination of social security systems within the Union” (Art. 1).

Art. 2 sets as the main objective for the ELA to contribute to ensuring fair labour mobility in the internal market. To this end, the Authority shall:

- facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services;
- support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections;
- mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

Source: [Commission proposal for a Regulation](#)

Part I: Impact Assessment and Initial Appraisal

Commission Impact Assessment (Federico Pancaldi, European Commission)

In its [presentation](#) summarising the [Impact Assessment](#), the European Commission sets out that there is a need for action as individuals and employers in cross-border situations cannot get adequate information, support and guidance. A second problem detected is inadequate (cross-border) cooperation between national authorities to properly enforce existing EU law relevant for posted or cross-border transport workers. This is due to incomplete or sparse availability of information, a lack of sharing administrative

information among authorities within a country and across borders. Another obstacle are insufficient capacities to organise cooperation. According to the Impact Assessment, mechanisms for joint enforcement actions or cross-border mediation are quasi inexistent. At EU-level, a fragmented landscape of initiatives and platforms exists, however, a setup for systematic coordination and cooperation is missing.

Therefore, the Commission proposes to establish a new agency, the ELA which aims at systematically tackling these problems. As quoted above, its main objectives are to improve access to information and services, to strengthen operational cooperation of authorities and to provide mediation between Member States whilst respecting the principles of subsidiarity and proportionality.

On this basis, the impact assessment identifies seven tasks for a new European structure:

1. Information and labour mobility services for individuals and businesses (including cross-border placement, recruitment)
2. Administrative cooperation of relevant authorities
3. Support to concerted and joint inspections
4. Analysis and risk assessment of labour market
5. Capacity building (i.e. mutual learning events, supporting analysis)
6. Mediation between national authorities to manage administrative cross-border disputes
7. Support in case of labour market disruptions affecting numerous Member States

To cope with these tasks, the Commission proposes an institution with an **operational profile (option 2)**. Given the problems identified, it was not deemed adequate to continue with the status quo (baseline scenario). Two other options discussed in the Impact Assessment are considered as less suitable: Option 1 would be weak to ensure real improvements and option 3 too ambitious in terms of objectives and budget:

- **Option 1: Focus on support** = increasing cooperation and coordination, extending support for joint inspections under existing structures (Platform Undeclared Work), introducing mediation, but without any formal status and information in case of labour market disruptions (estimated budget: EUR 27.3 m)
- **Option 2: Focus on an operational and more pro-active role** = technical support for Member States to improve the EURES portal, active support and expertise to authorities, proactive proposals for joint inspections, comprehensive training and technical assistance programmes, a formalised conciliation mechanism (estimated budget: EUR 28.0 m)
- **Option 3: A focus on supervision** = having a stronger role in setting standards and in setting up a real arbitration system (out of court), e.g. mandatory requirements for information exchange between authorities, joint inspections upon request by the ELA, piloting an out-of-court arbitration system (estimated budget: EUR 42.3 m)

In terms of **delivery options**, the Commission concludes that the **creation of an agency integrating or absorbing existing networks** would be the most cost-effective and coherent option to carry out the tasks set. This implies **legal amendments** in a number of regulations or decisions as detailed in the proposal for an ELA regulation. Other options compared against include the creation of an additional EU Network of labour mobility bodies managed by a secretariat at the Commission (option 1) or a different design of an agency to be integrated with an existing one. However, the Commission points out that this would be difficult as none of the employment-oriented agencies have a cross-border specialisation and evaluations are currently ongoing.

The proposed European Labour Authority would need **144 staff including 60 Seconded National Experts** and 15 Contractual staff. Looking at staff and overall budget, it is double the size compared to the other four agencies in the field of employment (OSHA, Cedefop, Eurofound, European Training Foundation), but considerably smaller in terms of staff than other operational agencies (e.g. Eurojust or Frontex).

Initial Appraisal of the Commission Impact Assessment (IA) by the European Parliamentary Research Service (Alexia Maniaki-Griva, EPRS)

The [Initial Appraisal](#) applies a standardised approach to assess the methodology and data used in Commission's IA. It concludes that *"overall, the IA makes a convincing presentation of the reasoning behind the initiative and of the problems in need of EU action. It provides a rather well substantiated problem definition which is supported by recent data, studies and stakeholder consultation. [...] The IA illustrates that efforts were made to obtain stakeholder feedback. Stakeholder views are overall well reflected in the text. They show mixed views on the possible organization of the ELA. The IA shows general consistency between problem definition, justification for intervention, objectives and options considered, which are sufficiently broad."*

At the same time, the Initial Appraisal by the EPRS points to a number of critical points:

- **Problem definition:** More evidence regarding the information needs and gaps in the field of labour mobility would have been useful.
- **Options:** A more detailed description with a view to operational aspects would have benefited the analysis. Further, the IA report could have explained better why it finds that it would be 'disproportionate to restructure the agencies only with a view to solving problems regarding labour mobility' but then considers that 'the preference for Option 2 does not rule out future decisions to build the new Authority on an existing decentralised agency as presented in Option 3'.
- **Stakeholder consultation:** This was conducted for six weeks instead of the 12 weeks normally required and shows insufficient information on respondents to the consultations. Further, stakeholder were not consulted on concrete delivery options but expressed (mixed) views on the form the ELA could take.

It is worth to note that the [Regulatory Scrutiny Board](#), i.e. an independent body of the Commission consisting of three high Commission officials and three experts, **first issued a negative opinion** on the Impact Assessment (7 February 2018). A second version having been submitted one week later received a positive opinion (21 February 2018). The revised IA is more elaborated on the scope and rationale of the initiative and on the view of stakeholders. It also shows a deepened analysis of different options and describes in more detail how the initiative *"can fit into the existing governance structures on labour mobility and social security coordination while at the same time fostering synergies and simplification"* (see IA, pg 68-70).. The Commission also informs in its proposal that further efforts have been made to tackle the remaining reservations with a view to potential overlaps and duplication (see Proposal for a Regulation, pg 8).

While the Initial Appraisal acknowledges that *"the recommendations for improvement made by the Regulatory Scrutiny Board appear to have been followed"*, it sets out that the *"IA report could have discussed further the risks of overlaps with existing structures and the potential streamlining and synergies with the Agency."* (see presentation).

Part II: Expert Panel - Enforcement, social security coordination, support for labour mobility (EURES), profile and governance

Enhanced Enforcement (Jan Cremers, Tilburg University)

Jan Cremers stressed in his [presentation](#) two points of particular importance:

Firstly, one of the main findings from research is that the competence of national enforcement bodies to act is limited to their national territory, although mobility is enshrined in a regulatory EU-frame. Therefore, it

could be considered **to include into the Regulation the Authority's competence to strengthen the legal capacity of national enforcement bodies in joint and EU-wide investigations** in cases of intra-EU infringements or irregularities related to cross-border labour mobility (based on Articles 81 on judicial cooperation in civil matters having cross-border implications, and Article 82 TFEU on judicial cooperation in criminal matters).

Secondly, research also shows that an **overall fining policy is missing** in the area of cross-border breaches. In order to ensure better enforcement, the Regulation should enhance the development of an EU-wide fining policy. To this end, a separate article could be added to the Regulation laying down **guidelines for a joint fining policy**. Contrasting with other EU-wide enforcement actions (e.g. in consumer protection), the Authority cannot order the cessation/prohibition of infringements. An introduction of competences to bring about the cessation or prohibition of an intra-Union infringement might contribute to effective and dissuasive enforcement.

In addition to the presentation, the [briefing note](#) prepared for the workshop recommends that the Authority's activities should contribute to a **reduction of dispersed compliance and enforcement activities** at national and at EU-level. The planned combined tasks relating to cross-border labour mobility and the coordination of social security could be complemented with **legislative areas not previously covered**, such as the tackling of artificial arrangements (letterbox companies) and the fight against fraudulent service providers. This would imply **to integrate other parts of the Union acquis into the Authority's scope**, such as the obligations regarding cooperation in case of fraudulent provision of services.

Currently, the **issuing of alerts** is limited to Member States. It could be considered to provide designated stakeholders, such as the recognised competent European trade union and employers' organisations, with the power to issue external alerts to the competent authorities of the relevant Member States and the Authority of suspected infringements covered by this Regulation

Social Security Coordination (Stefano Giubboni, University of Perugia)

In his [presentation](#), Stefano Giubboni expressed concerns with regards to the planned reorganisation:

In the field of social security coordination there is a **quite complex organisational infrastructure for administrative cooperation** organised around **five bodies**. According to the Commission proposal, the **Administrative Commission** as well as the tripartite **Advisory Committee** would remain unchanged while the other three related bodies (Conciliation Board, Technical Commission for Data Processing, Audit Board) would be dissolved and integrated into the broader profile of the new ELA. This proposed **unbundling of tasks** that are currently unitarily performed within the framework of the Administrative Commission in the domain of social security coordination **may need further discussion**. Shifting the mediation tasks to the ELA would risk undermining the resource of 'authoritativeness' that is built on the unique competence of the Administrative Commission to deal on both, on a regulatory as well as on an operational side, with all administrative issues and questions of interpretation arising from the provisions of the social security regulations. Compared to the reorganisation of mediation, the proposal of shifting to the ELA the tasks currently performed by the Technical Commission of Data Processing and by the Audit Board seems to be less problematic, since these tasks have a predominantly technical nature. However, the added value of shifting those technical tasks to the ELA is not entirely clear, since the proposal does not specify what kind of concrete operational capacity the new Authority would devote to perform these specific duties.

The [briefing note](#) prepared for the workshop puts forward three further recommendations: 1) to make the ELA a space for regular knowledge sharing and for building mutual trust between public officials in the specific sphere of social security coordination; 2) to invest in ELA's capacity to prevent cross-border disputes; 3) to empower the ELA **to suspend the validity of portable documents (A1 form)** in case of breach of the

principle of mutual information and cooperation between national institutions, in order to enhance enforcement with a particular view to posted workers.

Support for labour mobility - EURES (Vanessa Ludden/Angeli Jeyarajah, Ramboll Consulting)

The [presentation](#) gives an overview of potential opportunities and risks of reorganising the governance of the EURES network. In 2016, a revised Regulation (2016/589) broadened EURES membership including private and third-sector employment services in addition to public employment services. Further, this Regulation introduced new governance structures composed of the EURES Coordination Office (ECO) at the Commission, National Coordination Offices (NCO) in the Member States and the EURES Coordination Group functioning as EU network (representatives of the European + National Coordination Offices). The European Coordination Office at the Commission manages the Coordination group as well as horizontal tasks to support EURES, such as communication, training and the EURES portal. This job mobility portal presents vacancies which Member States have to deliver according to the Regulation. Further, it contains jobseeker CVs as well as information on living and working conditions in the Member States. The Commission is also responsible for the related IT platform to develop at the longer term automated matching at EU level.

The Commission proposal for the ELA implies a considerable reorganisation of the framework as set in the Regulation of 2016. **The EURES Coordination Office** shall be shifted to the new agency, implying that the EURES network (EURES Coordination Group) will in the future be organised between the Commission, the European Labour Authority and the Member States. The ECO within the ELA will also host and manage the EURES platform except for technical IT tasks.

This reorganisation could open **new opportunities** as the new agency could **facilitate coordination with other initiatives, increase efficiency gains as well as visibility and awareness** for labour mobility. Bringing together relevant EU bodies and / or topics within one single institution, the new agency could turn into a “one-stop shop” for free movement and become the **European face of one of the fundamental freedoms**. Further, common training modules could be developed.

On the other hand, the shift of key EURES components to the ELA entails **new challenges**: 1) The new organisational design requires more coordination as the ELA comes in as a third institution in addition to the Commission and the Member States. 2) The ELA will probably be located in one of the Member States, resulting in more logistical requirements. 3) More coordination will also be necessary to manage the EURES portal as IT and more analytical tasks will be split up between the Commission and the ELA. 4) EURES’ work would become linked to other areas, such as worker posting, which may lead to the *perception* that EURES’ mandate has widened (despite the proposal not foreseeing this) 5) Finally, from a Member State perspective, financial management and reporting could become more complicated.

To enhance coordination in the new, more complex organisational setup, it could be considered to establish an **ELA liaison office in Brussels** following the model of other EU agencies within the remit of the Employment and Social Affairs Committee (e.g. Cedefop, European Training Foundation). Such an office could include a **EURES representation**. Further, it could be necessary to clarify the EURES mandate within the ELA as well as financial monitoring and reporting pathways. The development of EURES and supporting services for labour mobility within the ELA will also depend on the resources allocated to EURES in the future ELA budget.

Profile and governance (Ellen Vos, University of Maastricht)

In her [presentation](#), Ms Vos assesses the setup of the ELA in light of comparative research on EU agencies and of the [Common Approach on decentralised EU agencies](#), a comprehensive set of guiding principles having been adopted by the European Parliament, the Council and the Commission in July 2012.

The Commission proposal shows a number of specific features:

- **Profile:** Like a number of other agencies, the ELA is a “mixed agency” combining different tasks including enforcement, but also social security coordination, placement and recruitment.
- **Name:** According to the Common Approach, all decentralised agencies to be created should be called ‘agency’ to avoid confusion among citizens and users, i.e. ‘European Labour Agency’.
- **Governance - stakeholders:** The planned Stakeholders group includes the Commission as member who can request meetings of this group (Art. 24). This is unusual for such a body. A further question for discussion is how to involve social partners, in a stakeholder group alone or in a tripartite management board like in many other agencies.
- **Governance - appointments:** As regards the appointment of the Director, the role of the European Parliament in the appointment procedure may need clarification. Moreover, provisions on independence and conflicts of interests for members of the Management Board, the director and other organs are missing so far.
- **Cooperation with third countries:** rules on cooperation could include international organisations.
- **Integration and absorption of existing EU bodies:** Given considerable reorganisation, there is a need for clarification, simplification and concretisation. The new agency shall integrate or absorb seven bodies. However, the Commission proposal does not detail how their tasks will be continued.

Finally, the debate around ELA could be used to **rethink EU structures and options for ELA** in a more general perspective: Depending on the concrete profile, ELA or the Administrative Commission could be the overarching body or agency. While the first option may be more plausible in case of a broader profile, the latter option could be discussed if ELA will be conceived as targeted inspection and enforcement agency.

Points from discussion

Enhancing enforcement of EU law: How powerful should the ELA be?

The discussion reflects potential tensions between a clear added value of a new European agency and competences of the Member States:

- Some underline the need to **respect Member States’ competences**. Moreover, the existing legal base as set by the Treaty should not be changed. Consequently, they oppose the creation of a European inspection system. The ELA should mainly focus on analysis, exchange of information and capacity-building to strengthen authorities in the Member States. In a number of countries inspectorates are ‘under-budgeted’. Overall, their capacities strongly vary across Europe.
- Commissioner Thyssen stresses that the legal base for action of the ELA is anchored in the Directive on Enforcement of the Posting Workers Directive and the revised Regulations on Social Security Coordination. From a Commission perspective, it is **important to build trust** between the Member States taking a longer-term perspective. Trust is considered as main prerequisite to enhance cooperation of authorities in a cross-border context.
- Supporters of a stronger EU enforcement policy assume that *“building upon trust without teeth might harm effectiveness of enforcement”*. They observe a coincidence of interests among governments, employers and trade unions when it comes to fight social dumping and unfair competition in practice. Therefore, it could be possible to equip the ELA and

national inspectorates with a **stronger mandate to detect and sanction** infringements of EU law. In case of detection of irregularities in a cross-border context an **EU-wide mandate for inspections** would be necessary based upon EU law on freedom of establishment and delivery of services in the Internal Market. There exists a number of legal acts that could be explored, for example:

- Chapter VI of the [Directive 2006/123/EC](#) on services in the internal market, in particular with regards to cooperation between Member States in checks, inspections and investigations related to fraudulent service providers
- the use of a blacklist of companies in the field of consumer protection as well as
- [Article 82](#) and [Article 83](#) of the Treaty calling for cooperation in criminal matters
- Further, with a view to using social security coordination it was suggested that in case of fraud, the validity of the A1 document for posted workers could be suspended. The related social security contributions could be transferred to a new EU fund

With a view to setting up **joint (cross-border) inspections**, it could be helpful to **more clearly define the cases** when the ELA should assist Member States as well as to clarify the consequences of recommendations and conclusions resulting from such inspections. Further, it could be explored whether social partners and in particular trade unions could bring cases for joint inspections to the attention of the ELA, as they have the experience on the ground. According to the proposed Regulation, a request for a joint inspection is limited to the Member States and these cannot be forced to participate (Art. 9). Further, the delay in launching a **European Social Security Number** may harm the effectiveness of cross-border inspections.

Enhancing enforcement of EU law: How to conceive a well-functioning mediation mechanism?

The Commission wants to keep the relevant section in the proposed Regulation **open and flexible**. In order to elaborate concepts for specific fields such as social security, the Regulation provides for the establishment of working groups or expert panels to complement the work of the general Mediation Board (Art. 17).

Contributions from experts and MEPs point to the need to add at least some **guiding principles for a mediation procedure** like in other agencies.

Further, it is considered necessary to clarify what happens **in case no agreement between conflicting sides can be achieved**. The ELA should have a strong role in this case. At the same time, the role of the ELA needs further clarification as the proposed Regulation does not specify the relation between the ELA mediation mechanism and the **European Court of Justice**. So far, the proposed Regulation only mentions that cases in which there are ongoing court proceedings at national or Union level shall not be admissible (Art. 13).

A further point for discussion is the **status of conclusions from a mediation procedure**. Currently, the proposed Regulation commits Member States concerned to report within three months to the ELA on follow-up measures taken and on reasons for not taking action.

Views also differ with regards to the establishment of **specialised and general mediation bodies**. According to an argument supporting a general Mediation Board within the ELA, fraud often relates to several fields at a time (e.g. social security, pay, taxes). Therefore, it could have advantages to go away from working in specialised 'silos'. However, in that case it would be necessary to establish mechanisms in order

to make systematic use of the existing experience. As regards social security coordination, there are concerns that in case of disruption of well established cooperation frameworks and mediation procedures a lack of expertise and specific procedures may occur (e.g. Administrative Commission - Conciliation Board, see sections on social security coordination).

Information delivery: Which tasks for whom?

To conclude from the discussion, more clarity is needed as to who and which level will be responsible for the **scope and quality of information** to be delivered to the ELA. The new agency shall provide information to individuals and businesses, but also to authorities and to other EU platforms. An effective completion of tasks by the ELA will depend on the proper collection and assessment of information. Further, data exchange should take account of cybercriminality and security aspects. It could also be important to concretise the relation to the numerous other EU portals and tools existing in this field (e.g. Single Digital Gateway, IMI - Internal Market Information System, EESSI - Electronic Exchange of Social Security Information).

Social security coordination: How to improve results?

A question for discussion is how to improve effectiveness, since the Administrative Commission as an inter-governmental body shows limited concrete results, as shown in the Commission Impact Assessment.

Stefano Giubboni points to the fact that social security coordination is decentralised. Therefore, an inter-governmental approach has to be maintained, even if somewhat slow and ineffective. To increase its effectiveness, it could be considered to make use of implementing acts. These could make decisions adopted by the Administrative Commission more binding.

Further, the capacity of the Administrative Commission should not be under-estimated. Having been established decades ago, a long tradition of inter-governmental cooperation has created considerable expertise and an atmosphere of mutual trust. Given the intertwined expertise of the Administrative Commission in interpreting law and mediation, it could be more effective to keep the Administrative Board and the Conciliation Board together.

Looking at the profile of EU agencies in a more general perspective, following expert opinion, it is unusual and inconsistent that the ELA as an independent EU agency shall assist the Administrative Commission, i.e. a body having the status of an expert group. The Commission stresses that the Administrative Commission as a body with a close connection to policymaking does not fit into the operational profile of the ELA.

EURES: Will EURES be more effective as part of ELA?

The Commission Impact Assessment refers to some weaknesses identified in a recent evaluation by the [European Court of Auditors](#), in particular the coverage and quality of vacancies delivered by the Member States to the EURES portal. In accordance with the EURES-Regulation of 2016, Member States shall provide all vacancies made publicly available with them (Art. 12).

Following expert assessment, the added value of the reorganisation may be modest in this regard as much depends on the **capacities at EU level** to provide guidance and monitoring and thus on the resources allocated to the EURES work be it at the Commission or at the ELA. However, in the end, the **willingness and capacities of Member States** to post vacancies and to ensure their quality is key, as well as the capacities of employment services.

As regards the **EURES mandate**: Even if its mandate remains the same in accordance with the EURES regulation of 2016, perceptions of EURES as a brand may get blurred when transferring it to the ELA. A

connection will be made with issues of posted workers or other issues of labour mobility the ELA will deal with.

Profile: Focus on enforcement or a broader service for labour mobility?

It is an important question for the European Parliament as co-legislator whether a more narrow profile on enforcement could have advantages compared to a broader profile integrating other tasks in the context of labour mobility and free movement.

According to the expert for EU agencies it is also clear from the proposal that the **ELA is not conceived as merely operational agency**. Its tasks include support and also supervisory functions. In this regard, the ELA would not be an exception as a number of more recently established agencies have a mixed profile. However, this does not totally correspond to the categorisation in Commission's Impact Assessment characterising the ELA as operational agency. It is unique that the ELA also offers direct services to citizens. This bears a certain risk to dilute its original focus on enforcement. On the other side, it is argued that the **definition of the profile depends on the interpretation of mobility** as the new authority has the objective to ensure fair mobility going beyond enforcement alone.

In general, the creation of an agency means to **increase accountability and visibility**. Agencies are organisations with reporting obligations and they are held accountable, including by the European Parliament.

Governance: How to best pool existing structures in the field of labour mobility?

Given numerous existing initiatives and structures, cooperation and coordination is an important topic in shaping the ELA.

Pooling and better coordination of existing EU initiatives under the umbrella of the ELA are of **added value** according to one expert. At the same time, according to the discussion, **a systematic concept for cooperation and coordination is missing** at the moment. According to the expert for EU agencies, foundational regulations for agencies do not tend to be very detailed, even if there is considerable variation.

Acknowledging this challenge, the Commission has established an [Advisory Group](#) by end of March 2018. This expert group shall support swift establishment and operational future functioning of the European Labour Authority. However, it does not meet very frequently (in May and as planned, in October in 2018). Moreover, a clear **separation of tasks with the ELA management and stakeholder group** will be necessary.

Another question is whether the proposal for a Regulation refers to **all relevant EU structures**. For example, despite an overlap in tasks, the proposed Regulation leaves the **SLIC (Senior Labour Inspectors Committee)** aside. The SLIC has a strong focus on inspections in the field of occupational health and safety including cross-border aspects. According to the Commission, in the work of this expert group informal exchange prevails. Further, a large body of specific EU law exists in the field of health and safety as well as a dedicated agency - the European Agency for Health and Safety at Work (OSHA). As the Commission Impact Assessment states, health and safety are beyond the remit of the ELA (IA, pg 18). Nevertheless, during the discussion the wish was expressed to make visible that **at least the experience in inspection will be systematically used** for the work of the ELA.

Finally, **a number of bodies will be dissolved**. Neither the proposed Regulation nor accompanying documents do specify **to which extent and how their tasks will be performed in the future**. This question may become pressing, in case ELA remit does not cover the complete scope of a structure to be abolished.

An example is the [Platform against undeclared work](#) having been established by a Decision of the European Parliament and the Council in 2016. While the ELA could offer new opportunities to work on the cross-border dimension of undeclared or falsely declared work, it remains unclear whether undeclared work at national level will have a platform in the future apart from being monitored in the context of the European Semester. It remains open how the existing expertise will be used and how capacity building in this field will be continued.

Overall, the discussion reveals a **need for a clearer concept** how various existing structures will collaborate. Looking at the description of tasks and roles, concern was expressed that it is still an enigma how by 2019 efficient enforcement in a setting with a myriad of bodies and tools can be carried out. The Commission plans are considered very ambitious.

Governance: Open questions in relation to the composition and appointment of ELA management

During the discussion a number of further points were raised:

Composition Management Board: According to the expert for EU agencies, requirements for members of the management board could be more clearly defined. The Commission proposal says only that this Board shall be composed of 'senior representatives' (Art. 18).

Selection procedure - Executive Director: It is not obvious why the Commission should propose a list of candidates for the post of the executive director and not the Management Board (Art. 32).

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This document is available on the internet at: www.europarl.europa.eu/supporting-analyses
IP/A/EMPL/2018-07

Print ISBN 978-92-846-3101-8 | doi:10.2861/762548 | QA-02-18-810-EN-C

PDF ISBN 978-92-846-3100-1 | doi:10.2861/841018 | QA-02-18-810-EN-N