



Plenary sitting

B9-0059/2024

12.1.2024

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the revision of the European Labour Authority mandate
(2023/2866(RSP))

Dragos Pîslaru

on behalf of the Committee on Employment and Social Affairs

B9-0059/2023

**European Parliament resolution on the revision of the European Labour Authority mandate
(2023/2866(RSP))**

The European Parliament,

- having regard to the European Pillar of Social Rights, solemnly proclaimed by Parliament, the Council and the Commission on 17 November 2017,
- having regard to the Commission communication of 4 March 2021 entitled ‘The European Pillar of Social Rights Action Plan’ (COM(2021)0102),
- having regard to the Porto declaration of the European Council of 8 May 2021,
- having regard to its resolution of 11 May 2023 on a roadmap towards a social Europe – two years after the Porto Social Summit¹,
- having regard to its resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe²,
- having regard to Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344³,
- having regard to the Commission proposal of 13 March 2018 for a regulation of the European Parliament and of the Council establishing a European Labour Authority (COM(2018)0131), and to the accompanying impact assessment (SWD(2018)0068),
- having regard to the European Labour Authority’s consolidated annual activity reports of 2019, 2020, 2021 and 2022,
- having regard to its resolution of 19 June 2020 on European protection of cross-border and seasonal workers in the context of the COVID-19 crisis⁴,
- having regard to Article 45(2) of the Treaty on the Functioning of the European Union, which states that ‘freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment’,
- having regard to Rule 132(2) of its Rules of Procedure,
- having regard to the motion for a resolution of the Committee on Employment and

¹ OJ C, C/2023/1072, 15.12.2023, ELI: <http://data.europa.eu/eli/C/2023/1072/oj>.

² OJ C 482, 23.12.2016, p. 31,

³ OJ L 186, 11.7.2019, p. 21.

⁴ OJ C 362, 8.9.2021, p. 82.

Social Affairs,

- A. whereas in 2021, there were about 10 million EU citizens of working age living in another Member State⁵; whereas the number of third-country nationals living and working in the EU has increased in recent years; whereas in 2022, 9.93 million third-country were employed in the EU labour market, corresponding to 5.1 % of the total working age population⁶; whereas workers from third countries do not yet fall under the scope of the European Labour Authority (ELA), although their problems related to labour mobility and working conditions are often similar to those of EU workers;
- B. whereas the free movement of workers and the freedom to provide services are two of the four basic freedoms of the EU; whereas these freedoms are essential to the proper functioning of the single market; whereas they are among the main achievements of EU integration;
- C. whereas workers' mobility can be hampered by insufficient coordination between social security systems across the Member States; whereas issues affecting the portability of rights and entitlements related to social security can act as disincentives for workers considering working in another Member State;
- D. whereas Parliament has repeatedly called for the creation of a EU-wide social security number to allow for the easy identification of workers, their employment status and their social security rights;
- E. whereas labour mobility boosts economic growth and benefits the EU as a whole by balancing labour supply and demand; whereas labour mobility can also result in bad working conditions and the exploitation of mobile workers through the abuse and circumvention of existing laws, or workers' lack of information about their rights and any applicable collective agreements;
- F. whereas ensuring fair mobility and fair competition based on non-discrimination and the principle of equal pay for equal work remains a challenge as a result of the 27 different labour market regimes with national regulations and practices; whereas Union legislation on workers' labour and social rights must be duly implemented and enforced in all Member States, as well as in cross-border situations; whereas ELA should also encourage the use of innovative approaches to efficient cross-border cooperation and the collection, analysis and exchange of information; whereas there is a lack of sufficient support services available for mobile workers, in particular for third country nationals, such as legal, social and psychological counselling;
- G. whereas the European Pillar of Social Rights, proclaimed in Gothenburg in 2017, sets out 20 principles and establishes a social rulebook for a strong, social Europe that is fair and inclusive; whereas equal rights and opportunities, access to the labour market, fair working conditions, social protection, inclusion and the autonomy of social partners are cornerstones of the Union anchored in the Treaties;

⁵ European Commission, 'Annual Report on Intra-EU Labour Mobility 2022', Directorate-General for Employment, Social Affairs and Inclusion, 2022.

⁶ European Commission, 'Statistics on migration to Europe', May 2023.

- H. whereas national enforcement authorities, such as labour and social security inspectorates, and social partners involved in labour and social security inspections do not always have the necessary resources and thus may struggle to effectively enforce national and EU law, especially in cross-border situations; whereas effective enforcement requires sufficient resources, as well as structured cooperation and regular and secure information exchanges between Member States and all relevant stakeholders;
- I. whereas ELA was established with the aim of facilitating cross-border cooperation in the effective enforcement of labour law, including joint and concerted inspections, and the exchange of information between Member States on labour mobility issues, with a view to supporting fair and well-functioning labour markets and welfare systems, protecting workers and ensuring fair competition in the single market;
- J. whereas the Member States should provide support, information and advice for workers and employers; whereas neither ELA nor the trade unions involved have sufficient resources to act as the helpdesk for individuals;
- K. whereas based on its founding regulation, ELA must contribute to ensuring fair labour mobility across the Union and assist the Member States and the Commission in the coordination of social security systems within the Union; whereas the ELA carries out several tasks in this regard, including facilitating access to information for individuals, employers and social partners on labour mobility, supporting Member States in promoting cross-border job matching and coordinating the European Employment Services (EURES), facilitating cooperation and the exchange of information between Member States, coordinating and supporting concerted and joint inspections, carrying out analyses and risk assessments on issues related to cross-border labour mobility, supporting Member States with capacity building in the field of labour mobility, tackling undeclared work and mediating disputes between Member States on the application of relevant EU law;
- L. whereas ELA has not yet reached its full operational potential; whereas ELA's activities and impact are restricted owing to the voluntary nature of the cooperation and participation of Member States and to its limited competences to request and process data from affected workers and companies; whereas ELA's legal framework prevents it from carrying out investigations on its own initiative and addressing issues related to labour mobility from third countries;
- M. whereas rules and practices on how to carry out labour inspections vary significantly between Member States, as does the cooperation between national authorities and ELA;
- N. whereas the European Banking Authority was given the mandate of carrying out investigations on its own initiative; whereas some European agencies, such as Europol, have access to the Internal Market Information System's database and are allowed to process personal data; whereas ELA is lacking similar rights;
- O. whereas social partners do not need to first exhaust domestic enforcement options, as they may bring cross-border cases to the attention of ELA any time, with a view to initiating cross-border inspections; whereas the timely, systematic and structural involvement of EU, sectoral and national social partners is indispensable in improving

ELA's effectiveness;

- P. whereas the European Platform tackling undeclared work has been integrated into ELA; whereas undeclared work remains an acute problem in the EU; whereas some sectors, such as hospitality, construction, tourism, care and household-related services, are more affected than others;
- Q. whereas ELA surveys and analyses are often outsourced to external contractors, which prevents the authority from building up own expertise and could call its independence into question;
- R. whereas one of the objectives of establishing ELA was to address the insufficient exchange of information between national authorities responsible for the different aspects of labour mobility and the coordination of social security systems in order to ensure that all available means are used as efficiently as possible in areas where ELA can provide added value;
- S. whereas skills mismatches and labour shortages are on the rise in the EU; whereas EURES can play a central role in fostering labour mobility and cross-border job matching; whereas ELA does not have the capacity to provide helpdesk services to individual jobseekers and companies; whereas the full potential of EURES has not been reached; whereas the use of EURES should be more strongly promoted by national authorities, employment agencies and social partners;
- T. whereas by 1 August 2024, and every five years thereafter, the Commission must assess ELA's performance in relation to its objectives, mandate and tasks, in compliance with Article 40 of Regulation (EU) 2019/1149; whereas the Commission's evaluation should take into account input from the ELA and relevant stakeholders and should, in particular, assess whether there is a need to change the ELA's mandate and the scope of its activities, including an expansion of its scope to cover sector-specific needs; whereas the evaluation should also explore further synergies and opportunities to align with other agencies in the areas of employment, social policy and fundamental rights, and should identify where ELA's activities could bring more added value to national authorities;
- U. whereas the evaluation should further explore regular cooperation and exchange with Europol and Eurojust in instances of crimes, in particular when organised crime is involved, for example in the construction sector, and, when European subsidies are involved, with the European Public Prosecutor's Office;
- V. whereas in its resolution of 11 May 2023 on a roadmap towards a social Europe – two years after the Porto Social Summit, Parliament underlined the importance of a well-functioning and efficient ELA; whereas Parliament has already called on the Commission to make use of the opportunity presented by the forthcoming evaluation to submit a legislative proposal to review the scope of ELA's founding regulation and allow it to realise its full potential, especially as regards its inquiry and investigation powers;
- 1. Calls on the Commission, based on the lessons learned since 2019 and on its ongoing assessment of ELA's mandate and operational capacity, to present a proposal for a

targeted revision of ELA's founding regulation, with a view to strengthening its mandate and added value for national authorities to allow it to fully achieve its mission of ensuring fair labour mobility;

2. Calls for ELA's mandate to be substantially strengthened to ensure its added value to national enforcement authorities, by allowing it to investigate alleged breaches or the non-application of EU law and to initiate and conduct inquiries into and inspections of cross-border cases on its own initiative, after notifying the relevant national competent authorities, in particular in cases involving breaches of EU law or where competent national authorities have not followed up on alleged breaches or the non-application of EU law; stresses the need to notify the national competent authorities and keep social partners informed of any ELA inquiries or investigations in their jurisdiction and to ensure that the national competent authorities provide ELA with any information that it considers necessary for its investigations, following national laws and practices, without delay;
3. Recalls that, in some Member States, labour inspections are carried out by social partners; stresses the importance of ensuring that ELA and the national competent authorities effectively cooperate with social partners, while respecting their autonomy, rights and prerogatives in line with national industrial relations;
4. Recalls that the scope of ELA is limited to the Union acts mentioned in its founding regulation; notes, however, that the authority is often confronted with problems relating to the working conditions of third-country nationals to whom the relevant labour legislation applies; calls, therefore, for an expansion of the scope of ELA's mandate to cover labour mobility for third-country nationals, with a special focus on putting an end to bogus posting and bogus self-employment; stresses the need to better support Member States in the application of relevant EU law and to explicitly include sector-specific legislation pertaining to labour law in the context of labour mobility in its mandate, for example, in the transport sector, the construction sector and the agriculture sector, as well as for temporary agency work;
5. Highlights the need to ensure adequate follow-up on concerted and joint inspections supported or facilitated by ELA; calls for effective procedures in order to ensure that breaches of national and EU law detected in the area of labour mobility are properly addressed through administrative or legal procedures in the Member States; underlines that ELA should be empowered to initiate administrative and legal proceedings in cases of suspected breaches; stresses that ELA, under its mandate, should support the recovery of unpaid wages and social security contributions in cross-border cases, for example by providing available information and evidence;
6. Stresses that ELA should thoroughly pursue cases brought to its attention by social partner organisations, by launching joint and concerted inspections with the relevant national authorities or by conducting inspections on its own; highlights that social partners should be able to request an ELA inquiry or inspection; stresses that social partners should receive follow-up information on the proceedings and, in the event that ELA rejects a request, a comprehensive justification;
7. Underlines that effective enforcement, including deterrent financial sanctions, is needed

to bring an end to non-compliance with labour legislation, the circumvention of social security payments and tax evasion in cross-border activities; urges ELA therefore to prioritise, under its mandate, cross-border law enforcement and controls, and to cooperate with other relevant EU agencies; stresses that ELA should keep a record of cases in which EU and national law in the area of labour mobility were violated, in line with the applicable EU data protection rules;

8. Recalls that the Commission proposal for a regulation establishing a European Labour Authority (Article 10(7)) provided for an obligation for ELA to report suspected irregularities ‘in the application of Union law, including beyond the scope of its competences’ to the Commission and the authorities in the Member State concerned should it become aware of such irregularities during its work; regrets that this provision was not included in the adopted text of the founding regulation; stresses that a revision of ELA’s founding regulation should include such a provision;
9. Calls for the timely, systematic and structural involvement of EU, sectoral and national social partners in the development and carrying out of the ELA’s activities to improve its effectiveness; calls on the national competent authorities to cooperate more closely with their national social partners, as they are experts in the field of labour law;
10. Calls on the Member States to recognise the added value of ELA, to strengthen cooperation between their competent authorities and ELA and to provide sufficient resources at national level to ensure that the competent authorities have the means, capacity and structure to cooperate and act effectively; recalls the key role of national liaison officers in facilitating cooperation between the Member States and ELA, by acting as national contact points, and in facilitating the exchange of information between ELA and the Member States; underlines that national experts seconded by the Member States, including national liaison officers, should help carry out ELA’s tasks and should not be working under the direction or supervision of their Member State; stresses the need to offer EU-level social partners the opportunity to designate one liaison officer each;
11. Notes the greater prevalence of precarious working and living conditions among third-country nationals, who, for example, depend on housing provided by their employer; underlines that ELA should be empowered to address the situation of third-country nationals, on the basis of applicable EU labour legislation, and that close cooperation with the Member States, social partners and civil society organisations is needed in this regard; points out that the Member States could benefit from ELA’s ability to provide information on the working conditions of mobile third-country nationals; stresses that ELA should be able to collect and access data related to the situation of mobile workers, including third-country nationals, in line with the applicable EU data protection rules, and to support the Member States to better enforce existing legislation for third-country nationals working in the single market; notes that ELA could also play a role in facilitating cooperation and the exchange of information between Member States on improving access for third-country nationals to the competent authorities for labour mobility and working conditions;
12. Regrets that the Commission has not followed up on Parliament’s resolution of 25 November 2021 on the introduction of a European social security pass for improving

the digital enforcement of social security rights and fair mobility⁷ or on its repeated call for a legislative proposal on the creation of a European social security number; reiterates, therefore, its call on the Commission to present such a proposal without delay in order to facilitate enforcement activities by ELA and national authorities and to enable social security coordination and to safeguard fair labour mobility;

13. Points out that exploitative, fraudulent and abusive corporate practices related to labour mobility by international actors are not always easy to identify and tackle at national level; is therefore convinced that ELA could provide added value through operational analyses at EU level, with a view to better identifying and exposing risk sectors and the unfair practices of the entities involved and to exchanging best practices on how to tackle such cases; regrets that the current ELA regulation provides neither a sufficient legal basis for conducting operational risk analyses nor any follow-up procedures; recalls that any breach or infringement of EU law in the area of labour mobility should entail investigations and, where appropriate, dispositive sanctions;
14. Calls for a clear provision allowing ELA to process data related to investigations and operational analyses, in line with the applicable EU data protection rules; calls for ELA to be given access to the Internal Market Information System and other relevant databases, provided that data confidentiality is ensured and that all data subjects' fundamental rights are respected; stresses that, in order to carry out its tasks in a timely and effective manner, ELA also needs access to all national data relevant to its work, including findings from inspections and enforcement activities by Member States;
15. Highlights the important role that EURES can play in addressing labour shortages and skills mismatches⁸ across the EU, as well as in providing general information about national labour markets and social security systems and real time information about available jobs; stresses the importance of a more user-friendly EURES portal for mobile jobseekers and potential employers;
16. Calls for improved coordination and cooperation among Member States, social partners and ELA on providing information regarding labour mobility and workers' rights to workers and employers;
17. Stresses the need for efficient cooperation between EU agencies in order to create synergies;
18. Calls for expanded cooperation on the exchange of information with Europol and Eurojust in instances of crimes, in particular when organised crime is involved, for example in the construction sector, and, when European subsidies are affected, with the European Public Prosecutor's Office;
19. Stresses that ELA needs sufficient resources, including its own staff, to carry out its tasks, in particular field inspections to detect breaches of labour law; notes that the high proportion of seconded national experts (SNEs) in ELA is a significant obstacle to its operations in the medium and long term; recalls that SNEs only have temporary

⁷ OJ C 224, 8.6.2022, p. 81.

⁸ EURES, '[Report on labour shortages and surpluses – 2022](#)', Publications Office of the European Union, Luxembourg, 2023.

assignments, which may contribute to institutional inconsistency, jeopardise operational continuity and lead to difficulties in delivering on ELA's core tasks; calls, therefore, for the conversion of a sufficient number of SNE posts to permanent posts;

20. Instructs its President to forward this resolution to the Council and the Commission.