**Follow up to the European Parliament non-legislative resolution on the revision of the European Labour Authority mandate**

1. **Resolution tabled pursuant to Rule 132(2) of the European Parliament Rules of Procedure**
2. **Reference numbers:** 2023/2866 (RSP) / B9-0059/2024 / P9\_TA(2024)0052
3. **Date of adoption of the resolution:** 18 January 2024
4. **Competent Parliamentary Committee:** Committee on Employment and Social Affairs (EMPL)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

This resolution focuses on the importance of the European Labour Authority (ELA) and its specific tasks, and highlights elements which could improve ELA’s action. The resolution identifies a need to strengthen and expand ELA’s mandate by a targeted revision of the founding regulation. The resolution suggests that ELA should be able to initiate administrative and legal proceedings in cases of suspected breaches or non-application of EU law, as well as to initiate and conduct inquiries into and inspections of cross-border cases on its own initiative, after notifying the relevant national competent authorities. The resolution also calls for a stronger role of ELA concerning relevant sector-specific legislation and working conditions of third country nationals, with a special focus on putting an end to bogus posting and bogus self-employment. The resolution does not propose any reduction in the current tasks of ELA.

The resolution underlines that ELA should ensure adequate follow-up on concerted and joint inspections and should provide effective procedures concerning the recovery of unpaid wages and social security contributions in cross-border situations. It also stresses the need to systematically, and structurally involve EU, sectoral and national social partners, to do so in a timely manner and to provide them with the right to request an inspection.

In its resolution the European Parliament also calls on ELA to better address skills mismatches and labour shortages, which are on the rise in the EU and to strengthen the European Employment Services (EURES) in fostering labour mobility in general and cross-border job matching.

Other elements highlighted are: the need to present a legislative proposal on the creation of a European social security number; need to offer EU-level social partners the opportunity to also nominate one liaison officer each; the need for a sufficient legal basis for conducting operational risk analyses and follow-up procedures, including investigations; allowing ELA to process sensitive and personal data related to investigations and operational analyses; the need for efficient cooperation between EU agencies in order to create synergies; the need for the conversion of a sufficient number of seconded national expert (SNE) posts to permanent posts.

1. **Response to the requests in the resolution and overview of the action taken, or intended to be taken, by the Commission:**

**Paragraphs 1 and 2**

The Commission is examining the potential of a targeted revision of ELA’s founding regulation in the context of the ongoing evaluation of the ELA performance, the results of which are expected in the second semester of 2024. The Commission is assessing in the context of the evaluation the best ways to further improve the functioning of the ELA, including to which extent a targeted revision is needed and how ELA could further contribute to fair labour mobility on the EU labour market and to strengthen fairness and trust in the internal market.

**Paragraph 4**

Posted third-country nationals are covered under ELA’s Mutual Learning and Understanding [Posting 360 Programme](https://www.ela.europa.eu/en/news/enhancing-cross-border-cooperation-area-posting-workers-ela-launches-posting-360-programme), whereby ELA in close cooperation with the Commission, supports Member States and the social partners in the application of national and EU law on the posting of third-country nationals. To that end, ELA is organising a series of workshops addressing the main labour law and social security aspects related to posting of third-country nationals. ELA is already conducting extensive inspection and awareness-raising actions at sectoral level.

**Paragraphs 3, 5 and 9**

In line with ELA’s governance and the implementation of its work programme, ELA cooperates systematically and closely with social partners, supporting their meaningful and timely involvement in inspections. Social partners are part of the Management Board, the Stakeholder Group and they participate in all working groups organised by ELA. ELA has established a dedicated Social Partners liaison function and the ELA Brussels Liaison office should further facilitate this cooperation. Once a year, ELA holds an outreach event in Brussels involving the social partners.

The Commission recalls that ELA’s activities are bound by the applicable legal framework, and thus do not cover areas such as the cross-border recovery of unpaid wages. Progress with the digitalisation of social security coordination will facilitate compliance at national level. The [Commission Communication](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A501%3AFIN) on digitalisation in social security coordination proposes concrete actions to move towards more digitally integrated social security systems and to facilitate fair mobility.

**Paragraph 6**

To ensure the vital role and contributions of social partner organisations ELA has provided guidance at national level to bring cases to its attention. In its first years of operation ELA has received 12 official cases; some of them are ongoing at national level, while others have been closed.

**Paragraph 7**

Setting up the tool to coordinate and support concerted and joint inspections, with dedicated workflows and procedures has been the priority of ELA since its establishment. This tool should record, in line with the applicable EU data protection rules, the outcomes of inspections performed with ELA support. Until the end of 2023, ELA has supported and coordinated over 120 concerted and joint inspections. ELA has started cooperation with the European union Agency for Law enforcement agency (Europol) and the European Union Agency for Criminal Justice Cooperation (Eurojust) on joint actions with the aim, inter alia, to end activities related to social security fraud and to tackle serious labour and other social offenses. ELA plans to continue and further develop this enforcement cooperation.

**Paragraph 11**

Precarious working and housing conditions are very much linked to the type of the workers’ employment contract and status. ELA therefore has paid particular attention to areas of work such as road transport or agriculture where changing places of work, short-term assignments and seasonal work are particularly prevalent.

In line with the provisions of its founding Regulation, ELA has a limited mandate in terms of third country nationals, given that its legal base is linked to the free movement of workers. ELA can cover third country nationals only via the link with posting of workers, posting of drivers or social security coordination. Furthermore, if ELA, in the course of concerted or joint inspections, or in the course of any of its activities, becomes aware of suspected irregularities (including linked to third country nationals) in the application of Union law, it may report those suspected irregularities to the Member State concerned and to the Commission.

**Paragraph 12**

ESSPASS, the European social security pass, replaces the European Social Security Number and builds on the future European Digital Identity framework and its wallets to allow people to digitally identify themselves and store and share social security entitlement documents in digital form. It will thus support a better enforcement and application of the relevant rules. Two consortia of Member State institutions are currently piloting the issuance and cross border verification of portable document A1 and the European Health Insurance Card. This is a follow-up to the first phase of the [European Social Security Pass (ESSPASS) pilot](https://ec.europa.eu/social/main.jsp?catId=1545&langId=en). The further piloting is crucial to obtain a sufficient and technically sound evidence base. Based on the assessment of the results of the pilot activities, the Commission will decide on the next steps, including the opportunity to deploy an ESSPASS solution in all EU countries and whether this would require a legislative framework. ESSPASS aims to facilitate people’s exercise of social security rights across-borders and thus free movement.

**Paragraphs 13 and 14**

ELA’s main task is to facilitate cooperation and coordination between the Member States and with the Commission. ELA has taken initiatives to cooperate closely with the Member States, the Commission, the Administrative Commission for the Coordination of Social Security Systems and Eurostat to be able to collect data available at the national and European level (e.g. national or cross-border inspections involving regulation under the scope of ELA remit). Building trust, becoming a reliable interlocutor on enforcement related questions and using the possibilities to analyse and share non-personal data for sector-specific risk assessments is already a possibility under the existing legal mandate. The ELA evaluation shall provide guidance on whether further steps are needed.

**Paragraph 15**

The Commission is actively supporting improvements in the functioning of the EURES network, finances and supports the targeted mobility schemes and the EURES cross-border partnerships. The Commission further works on enhancing synergies between EURES and EUROPASS, while monitoring the performance of EURES, as well as the compliance of the Member States and ELA to the regulation. ELA proposed recently its EURES Portal Strategy 2023-2030 aiming to significantly improve the technical capabilities and the user-friendliness of the EURES portal.

**Paragraphs 16, 17 and 18**

ELA has signed Memoranda of Understanding or similar documents, exploring areas of cooperation and potential synergies with the Agencies and other bodies working in areas close and complementary to ELA. In the execution of its enforcement task ELA is cooperating with Europol, the European Union Agency for Law Enforcement Training (Cepol) and Eurojust as well as the Administrative Commission for the Coordination of Social Security Systems and SOLVIT. ELA and Europol joined forces in the fight against labour exploitation under the [EMPACT framework](https://www.europol.europa.eu/crime-areas-and-statistics/empact).

**Paragraph 19**

The high proportion of SNEs presented challenges during the start-up of the organisation, concerning the relatively short term of SNEs’ engagement; the fact that SNEs cannot legally represent ELA or manage financial or procurement files. This consequently increases the administrative burden on statutory ELA staff members as regards several key tasks. Nevertheless, SNEs have already proven to be one of the strengths of the agency, and in a longer-term perspective, the SNE status can continue to raise awareness among high-ranking national officials of ELA based on direct experience, also acknowledging the advantages of good EU-level cooperation.