

The European Labour Authority

Subjects: Political Science

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On June 20, 2019, Regulation 2019/1140 was published in the Official Journal of the European Union. Under this Regulation, the European Labour Authority is established. The aim of the entry is to briefly explain the organisation and main functions of this new EU agency, using the relevant Regulation provisions and therefore underline its importance in the EU institutional system.

Keywords: European Labour Authority ; labour market ; Regulation 2019/1149

1. Introduction

The freedom of movement for workers, the freedom of establishment and the freedom to provide services are fundamental principles of the internal market of the Union, enshrined in the Treaty on the Functioning of the European Union (TFEU). All the more, those freedoms have been guaranteed since the establishment of the European Economic Community (EEC), back in 1957 and belong along with the free movement of goods and capitals, to the four fundamental freedoms of the internal market. Indeed, according to article 45 TFEU “Freedom of movement for workers shall be secured within the Union”, while freedom of establishment is guaranteed in article 49 TFEU: “Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State” and freedom to provide services in article 56 TFEU: “Within the framework of the provisions set out below, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended”.

2. The European Labour Authority

In order to strengthen the fundamental freedom of movement for workers, freedom of establishment and freedom to provide services, the European Labour Authority is established under Regulation (EU) 2019/1149 of the European Parliament and of the Council. An agency of the EU, the Authority is a Union body with legal personality, located in Bratislava. As firmly indicated in the preamble, according to article 3 TEU, the Union is to work for a highly competitive social market economy, aiming at full employment and social progress and to promote social justice and protection, equality between women and men, solidarity between generations and combatting discrimination. Pursuant to article 9 TFEU, the Union, in defining and implementing its policies and activities, is to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and the promotion of a high level of education, training and the protection of human health.

3. Key breakthroughs

In that perspective, the role of the European Labour Authority will be to help strengthen fairness and trust in the internal market. To that end, the Authority should assist the Member States and the Commission in strengthening the access to information, should support compliance and cooperation between the Member States in the consistent, efficient and effective application and enforcement of the Union law related to labour mobility across the Union, and the coordination of social security systems within the Union, and should mediate and facilitate solutions in the case of disputes. Improving access to information for individuals and employers, in particular SMEs, about their rights and obligations in the areas of labour mobility, the free movement of services and social security coordination, is essential to allowing them to benefit from the full potential of the internal market.

As described in article 2 of the Regulation 2019/1149, the objectives of the Authority shall be to contribute to ensuring fair labour mobility across the Union and assist Member States and the Commission in the coordination of social security systems within the Union. More specifically: to facilitate access to information on rights and obligations regarding labour

mobility across the Union as well as to relevant services, to facilitate and enhance cooperation between Member States in the enforcement of relevant Union law across the Union, including facilitating concerted and joint inspections, to mediate and facilitate a solution in cases of cross-border disputes between Member States and to support cooperation between Member States in tackling undeclared work.

In order to achieve its aforementioned objectives, the Authority shall carry out the following tasks, according to article 4 of the Regulation 2019/1149, as specified in the relevant provisions of the Regulation. In particular, the Authority shall facilitate access to information and coordinate the European Coordination Office of the European network of employment services (EURES) in accordance with articles 5 and 6, facilitate cooperation and the exchange of information between Member States with a view to the consistent, efficient and effective application and enforcement of relevant Union law, in accordance with article 7, coordinate and support concerted and joint inspections, in accordance with articles 8 and 9, carry out analyses and risk assessment on issues of cross-border labour mobility, in accordance with article 10, support Member States with capacity building regarding the effective application and enforcement of relevant Union law, in accordance with article 11, support Member States in tackling undeclared work, in accordance with article 12 and mediate disputes between Member States on the application of relevant Union law, in accordance with article 13.

In particular, the Authority shall improve the availability, quality and accessibility of information of a general nature offered to individuals, employers and social partner organisations regarding rights and obligations, to facilitate labour mobility across the Union. In addition, the Authority shall manage the European Coordination Office of EURES in order to support Member States in providing services to individuals and employers through EURES, such as cross-border matching of job, traineeship, and apprenticeship vacancies with CVs and thus facilitating labour mobility across the Union. Plus, the Authority facilitates the cooperation and acceleration of exchange of information between Member States and supports their effective compliance with cooperation obligations.

Subject to the agreement of the Member States concerned, the Authority coordinates and supports concerted or joint inspections in the areas within the Authority's competence, at the request of one or more Member States or on its own initiative, suggests to the authorities of the Member States concerned that they carry out a concerted or joint inspection. An agreement to carry out a concerted inspection or a joint inspection between the participating Member States and the Authority shall set out the terms and the conditions for carrying out that inspection, including the scope and purpose of the inspection and, if relevant, any arrangements with regard to the participation of the staff of the Authority. The agreement may include provisions which enable concerted or joint inspections, once agreed and planned, to take place at short notice. The Authority shall establish a model agreement in accordance with Union law, as well as national law or practice. Concerted and joint inspections are carried out in accordance with the law or practice of the Member States in which the inspections take place in an operationally effective manner.

The Authority, in cooperation with Member States and where appropriate, the social partners, assesses risks and carries out analyses regarding labour mobility and social security coordination across the Union. The risk assessment and analytical work shall address topics such as labour market imbalances, sector-specific challenges and recurring problems, and the Authority may also carry out focused in-depth analyses and studies to investigate specific issues. In carrying out its risk assessment and analytical work, the Authority shall, to the extent possible, use relevant and current statistical data available from existing surveys, and ensure complementarity with, and draw on the expertise of Union agencies or services and of national authorities, agencies or services, including in the areas of fraud, exploitation, discrimination, skills forecasting and health and safety at work.

Finally, the Authority may facilitate a solution in the case of a dispute between two or more Member States regarding individual cases of application of Union law in areas covered by this Regulation, without prejudice to the powers of the Court of Justice. The purpose of such mediation shall be to reconcile divergent points of view between the Member States that are party to the dispute and to adopt a non-binding opinion.

4. Application

In terms of management and administration, the Authority's administrative and management structure is composed of a Management Board, an Executive Director and a Stakeholder Group. Members from Member States, EU institutions and social partners participate in the Management Board; one member from each Member State, two members representing the Commission, one independent expert appointed by the European Parliament and four members, representing cross-industry social partner organisations at Union level, with an equal representation of trade union and employer organisations. Only the representatives of the Member States and the Commission retain the right to vote. The Management Board adopts the Authority's policy in accordance with its scope, as dictated in article 18 of the Regulation 2019/1149. The executive post of the Authority is vested to the Executive Director. He/she is responsible for the

management of the Authority and the implementation of the tasks assigned to the Authority by the Regulation 2019/1149 as specified in article 22. He/she is the legal representative of the Authority and is accountable to the Management Board. The Stakeholder Group is attached to the Authority and have advisory functions. It is composed of two representatives of the Commission and ten representatives of the Union-level social partners with an equal representation of trade union and employer organisations, including recognised Union sectoral social partners representing sectors that are particularly concerned with labour mobility issues. It is chaired by the Executive Director.

Each year, the Authority forms its own budget. Its main financial resources derive from a direct contribution from the Union entered in its general budget, any voluntary financial contribution from the Member States, any contribution from third countries participating in the work of the Authority, possible Union funding in the form of delegation agreements or ad hoc grants in accordance with the Authority's financial rules referred to in Article 29 and with the provisions of the relevant instruments supporting the policies of the Union and charges for publications and any service provided by the Authority, without prejudice to other resources. On the other hand, the Authority's expenditure cover staff remuneration, administrative and infrastructure expenses and operational expenditure.

5. Concluding remarks

The European Labour Authority provides a significant step towards approximation of national labour policies, in the light of European integration. Moreover, it strengthens the accomplishment of the aims of the Union by providing high level of expertise on the labour market and therefore improving access to information for individuals and employers about their rights and obligations in the areas of labour mobility, the free movement of services and social security coordination, an essential aspect which allows them to benefit from the full potential of the internal market.

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