



January 2017
AK Position Paper

European Labour Authority (ELA)

About us

The Austrian Federal Chamber of Labour is by law representing the interests of about 3.6 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Rudi Kaske
President

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 816.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.6 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Christoph Klein
Director

The AK's position in detail

General remarks

In view of the substantial increase in cross-border employment and associated cross-border cases in the fields of labour law and social law, we welcome the establishment of a relevant European Labour Authority. Due to the differing interests of the Member States, in most cases the associated problems cannot currently be resolved effectively at the bilateral level.

We wish to refer here to one of the key objectives enshrined in the primary law of the European Union, namely the improvement of living and working conditions. That objective is currently being thwarted by wide-ranging forms of wage dumping and social dumping, resulting in a race to the bottom in numerous fields of the working world. That primarily hits employees hard, but in many cases it is also detrimental to employers who refuse to engage in wage dumping and social dumping. The problem is exacerbated by national political groupings acting under the guise of patriotism. As a result of their growing influence, the necessary cooperation between Member States is increasingly being replaced by competition.

The proposed authority has been referred to as the European Labour Authority, European Labour Law Authority, or the European Labour Market Authority. However, since its remit should not be limited to labour law in a narrow sense, or conventional labour market agendas, and should instead also in-

clude matters of social law and powers in connection with the cross-border pursuit and enforcement of civil claims and sanctions, the name European Labour Authority would be most suitable.

Tasks of the European Labour Authority

The tasks of the European Labour Authority should include the following:

- Ensuring and improving administrative cooperation in connection with offence proceedings in cases of wage or social dumping, and violations of occupational safety and health legislation. In doing so, it should draw on experiences with the existing Internal Market Information (IMI) System.
- Combating abuse, in particular social fraud, bogus and undocumented work, and assisting with coordination of any cross-border inspections that may be necessary.
- Improving the possibilities of enforcing civil claims in cross-border cases. In practice, the legal instruments for enforcement of civil claims in cross-border cases are unfortunately largely ineffective.

In that regard, the authority could also provide advice and support with respect to the specific claims of employees concerned, for example by providing information about national core labour standards in possible target countries of postings. It would also be important for

there to be free, digital access to national commercial register data without any bureaucratic obstacles and with relevant translation aids.

- Performance of Europe-wide surveys and studies in the fields of the labour market, occupational safety, and enforcement of labour law claims in connection with cross-border cases. In order to make a clear distinction between the tasks of the European Labour Authority and those of the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Labour Authority should focus on applied research in its immediate remit and leave conventional pure research etc. to Eurofound.

It would also be conceivable for the authority to act as the central EURES body and to serve as a higher-level authority and quality assurance authority for EURES advisers.

The European Labour Authority and social security

In principle, we welcome the proposal – made as part of the Commission’s initiative – to establish a uniform European social security number. However, it should be noted that it will only represent a significant improvement for the supervisory authorities if it enables national social security data to be accessed quickly and directly.

The European Labour Authority itself should certainly have access to the EESSI (Electronic Exchange of Social Security Information) system that is being developed and be in close touch with the Administrative Commission for the Coordination of Social Security Systems.

In that regard, it could also supplement appeals by individual Member States to the CJEU, in particular if several Member States address the Commission with similar problems and clarification by the CJEU is in the general interest.

It would also make sense for the European Labour Authority to be in charge of arbitrating conflicts concerning the remits of the social security authorities of the various Member States and conflicts with respect to the allocation of crowdworkers and digital service providers to national social security systems.

Distinction between the European Labour Authority and the national authorities, and priority areas

The European Labour Authority should supplement the national authorities and relevant institutions instead of replacing them. Purely national matters should not come under the remit of the authority. The performance of specific inspections should remain the task of the national authorities.

Priority areas should be cross-border postings, cross-border temporary employment and employment services, as well as work performed for foreign employers, principals or work platforms in the field of digital working. The authority should also focus on cross-border transport and the working conditions in that segment.

Should you have any further questions
please do not hesitate to contact

Walter Gagawczuk

T: +43 (0) 1 501 165 2589

walter.gagawczuk@akwien.at

and

Petra Völkerer

(in our Brussels Office)

T +32 (0) 2 230 62 54

petra.voelkerer@akeuropa.eu

Bundesarbeitskammer Österreich

Prinz-Eugen-Straße 20-22

1040 Vienna, Austria

T +43 (0) 1 501 65-0

AK EUROPA

Permanent Representation of Austria to the EU

Avenue de Cortenbergh 30

1040 Brussels, Belgium

T +32 (0) 2 230 62 54

F +32 (0) 2 230 29 73