



Global Employer Services Employment law

European Labour Authority prepares for more joint cross-border inspections

Cross-border labor inspections to check employers' compliance with social security and labor law obligations have been rare. However, this may be about to change as the European Labour Authority (ELA) has started to take action to assist EU member states in planning such joint inspections, and to help coordinate and support those inspections.

ELA activities

The ELA was established on 31 July 2019 to help ensure that EU rules on labor mobility and social security coordination are enforced fairly and effectively. On 9 February 2021, the ELA announced that it had developed a set of tools coordinating and supporting the organization of cross-border inspections. The resources include guidelines for cross-border inspections that explain the purpose of the various tools and procedures and guide national enforcement bodies in planning, implementing, and following up on cross-border labor inspections, and a mapping of the various national legislation applicable to cross-border inspections. The ELA's initiative simplifies the process significantly, potentially leading to an increase in the number of cross-border inspections.

Revised EU Posted Workers Directive

The revised EU Posted Workers Directive (PWD), with which all EU member states' domestic legislation must be aligned as from 30 July 2020, presents employers with a new compliance landscape when business travel resumes in a post-COVID-19 environment. The employment conditions and related obligations to be observed by companies with respect to their mobile workforce have been expanded and more specifically, the equal pay for equal work principle has been introduced. This principle implies that the remuneration of posted workers must be equivalent to that of their local peers, including the

same salary elements embedded in legislation and generally applicable collective agreements, such as bonuses or allowances.

In addition, it is important to also keep in mind the other strict compliance requirements for employers of a mobile workforce, such as prior notifications of posting, the appointment of a liaison person, and the retention of social documents.

In view of future cross-border inspections, and to avoid financial and reputational consequences, it is important for employers to comply with all PWD-requirements.

Comment

In light of the above, employers with a mobile, cross-border workforce should consider taking the following action:

- Ensure compliance with the PWD by notifying the posting prior to the start of the activities, by appointing a liaison person, and by retaining the required social documents as well as an A1-form;
- Review the legal framework for equal working conditions for the appropriate business/industry in the relevant European countries;
- Assess the elements of collective agreements that will influence an employee's remuneration package; and
- Review payroll processes to facilitate salary uplifts where required.

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