How to design the European Labour Authority to fight more efficiently social and wage dumping

Roberto Pedersini,
Università degli Studi di Milano
Outline

- Labour mobility and the issue of fairness
- Labour mobility in the EU
- National experiences and good practices
- The roles and tasks of ELA
- The governance of ELA
- The relational context of ELA
- How to fight social and wage dumping?
- The role of social partners
- The challenges ahead

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
Labour mobility and the issue of fairness

• Labour mobility is an essential component of European integration and can help achieve at its highest levels the EU objectives of supporting social cohesion and economic growth, as long as it takes place in ways which protect the rights of workers, ensure fair conditions of employment and good working conditions, avoid social dumping, and promote innovation.

• The establishment of a European Labour Authority (ELA) has been proposed, in the framework of the European Pillar of Social Rights, with a view to promote fair and effective labour mobility, in order to avoid the negative aspects of the mobility of workers and take full advantage of its potential for social integration and economic growth.

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
Labour mobility in the EU: movers and issues

**Movers**

EU-movers (living in a MS other than their country of citizenship) 17 million  

*of which:*  
EU-movers of working age (20-64) years 12.4 million  
EU-movers employed or looking for a job 9.5 million (4% of EU overall workforce)  

Cross-border workers  
Posted workers (employees and self-employed) 1.8 million (2.8 million postings)  
Road transport workers crossing internal borders daily 2.0 million*  
Return mobility 680 thousand (2016)

**Issues**

Maintain national social security coverage while temporarily abroad 2.3 million workers  
Access to health service while living abroad 1.4 million people  
Access to family benefits  
Undeclared work 539,000 households  
Violations in posting 909,000 family members 400,000 mobile workers 2,300-9,200 people

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
National experiences and good practices

- As a EU-level body entrusted with coordination and facilitation tasks in cross-border relations between national authorities, the ELA is a quite peculiar entity.
- The use of on-line registration tools for the cross-border provision of services can enhance monitoring and implementation of labour legislation.
- The provision and circulation of information on rights, obligations, and the availability of support and services can be crucial.
- National experiences in fighting social and wage dumping show the importance of joint inspections between different national authorities (terms of employment, working conditions, health and safety, social contributions, taxes, etc.) as well as the importance of involving the social partners.
- The coordination between different authorities enhances the utilisation of specific expertise, makes the collection and the analysis of data more effective, and increases the capacity to ensure implementation and enforcement.
- Social partners can provide valuable information on workplace situations and ensure links with workers and employers.
- Detection and enforcement in case of fraudulent practices can be particularly difficult, so that the involvement of stakeholders can be useful to foster involvement and commitment.

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping.
# The roles and tasks of ELA

<table>
<thead>
<tr>
<th>Role</th>
<th>Content/objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilitate</td>
<td>Access to information on rights and obligations (Articles 6 and 7)</td>
</tr>
<tr>
<td>Support</td>
<td>Member States with capacity-building regarding the application and enforcement of relevant Union law (Article 12)</td>
</tr>
<tr>
<td>Facilitate and enhance</td>
<td>Cooperation between Member States in enforcement of Union law (Article 8)</td>
</tr>
<tr>
<td>Support</td>
<td>Cooperation between Member States in tackling undeclared work (Article 12a)</td>
</tr>
<tr>
<td>Facilitate and enhance/ Coordinate and support</td>
<td>Concerted and joint inspections (Articles 9 and 10)</td>
</tr>
<tr>
<td>Mediate and facilitate</td>
<td>Solution of cross-border disputes on the application of relevant Union law (Article 13)</td>
</tr>
<tr>
<td>Carry out</td>
<td>Analyses and risk assessment on issues of cross-border labour mobility (Article 11)</td>
</tr>
</tbody>
</table>

- The various roles and activities of the ELA appear well articulated and integrated and provide a significant potential for effective operations. Although the ELA does not have any specific mandatory powers, the range of its tasks and their integration provide multiple and coherent ways in which it can contribute to ensure “fair labour mobility across the Union” (Article 2.1)

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
The governance of ELA

• The ELA’s effectiveness essentially relies on the capacity to mobilise stakeholders and provide them with essential resources, such as specialised knowledge and services. Even more importantly, it is the position of the ELA at the intersections of distinct networks of stakeholders that can enable the combination of different expertise and assets with a view to achieve the common goal of ensuring fair labour mobility across the Union.

• In this perspective, the composition of the Management Board and the presence of a Stakeholder Group aptly reflect this operational feature of the ELA and can significantly contribute to its effectiveness.

• At the operational level, the presence of National Liaison Officers seconded from Member States is probably one of the most important organisational feature of the ELA. Indeed, National Liaison Officers are the ‘terminals’ of the national administrative networks which must be mobilized and activated in order to achieve the ELA’s objectives.

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping.
The relational context of ELA

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
How to fight social and wage dumping?

• The basic requirements to fight social and wage dumping in cross-border contexts are:
  - *Legal instruments*, which enable the coordination and exchange of information between different authorities
  - *Offices and roles*, which are responsible for carrying out the various activities in the different phases of the investigations
  - *Procedures*, which clearly identify the steps to be followed to activate the various offices and roles and what must be obtained at each step

• Adequate legal infrastructure, stable links between offices and clear and common procedures, both within and across Member States, are fundamental enabling factors in fighting effectively social and wage dumping

• Joint training, peer review, country visits and joint initiatives are essential to create common conceptual and analytical frameworks to support joint initiatives

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
The role of social partners

- The social partners have a specific role to play in ensuring fair terms of employment and working conditions.
- The trade unions, in particular, engage consistently in campaigns, awareness-raising initiatives and organizing efforts, which focus on wage and social dumping, including in cross-border situations.
- Employer and business associations can provide support and instruments to their members to comply with national and EU laws and they can foster the mobilisation against unfair competitive practices, which involve the undercutting of terms and condition of employment.
- Trade unions and employers can jointly set rules to contrast social dumping or they can engage in tripartite relations with public authorities to ensure fair treatment of workers.
- For these reasons, their inclusion and active mobilisation among ELA’s stakeholders can be particularly important to support the effectiveness of the whole cycle of its activities.

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping
Final remarks

- The various ELA activities can be regarded as parts of a comprehensive ‘cycle’. Each one contributes to preparing and providing grounds for the others and their combination reinforces and promotes the role of the ELA.
- The ELA plays an essential role as a facilitator and activator of knowledge and resources pertaining to different networks.
- Important premises for the effective operation of the ELA can be produced in everyday interactions between actors and stakeholders and in relational activities such as learning programmes, peer reviews and mutual assistance.
- While the ELA must focus on the competences included in the Regulation, it may use studies and analyses to explore other areas too, given the variable and adaptive nature of the issues it has to address.
- Building new institutions, conceptual frameworks and operational tools is a difficult task. The current design of the Authority takes on board many actors that have experimented in these directions in recent years in the European Union.
- The challenge for ELA is to go beyond those experimentations and create a comprehensive and inclusive system.
- It will take the effort and commitment of all the involved actors and stakeholders to contribute to build a more cohesive, fair, and integrated European Union.

Roberto Pedersini, How to design the ELA to fight more efficiently social and wage dumping