

Brussels, December 2023

EFSI contribution to the evaluation of the European Labour Authority mandate

The European Labour Authority (ELA) was established to strengthen workers' rights by helping national authorities apply and enforce European labour law and fighting abuses in labour mobility, social security and the posting of workers. One of the objectives was to improve information to workers and employers on their rights and obligations, coordinate and support inspections and facilitate cooperation between Member States in applying and enforcing EU law.

EFSI agrees with several points brought forward by the motion of the European Parliament¹ calling on the European Commission to:

- 'strengthen the mandate of ELA allowing it to reach its full operational potential';
- 'keep national competent authorities informed of any ELA investigation in their jurisdiction and to ensure that national competent authorities provide ELA with any information that it considers necessary for its investigation, without delay';
- ensure 'the timely, systematic and structural involvement of EU, sectoral and national social partners to improve the effectiveness of ELA';
- empower ELA to address the situation of third-country nationals who find themselves in precarious working conditions and 'promote a close cooperation with Member States and social partners in this regard'.

Moreover, EFSI welcomes the establishment of the **European Platform tackling undeclared work (UDW)** given that is meant to prevent, deter and combat UDW as well as to promote the declaration of current UDW. The creation of the European Platform to tackle UDW puts the issue at the forefront of political discussions while recognizing its prevalence in a variety of sectors of which "*household services, which include domestic cleaning services as well as child and elderly care, personal services, ...*". In this regard, recent estimates show that, **among the 10 million domestic workers to be found in Europe, at least 3.5 million of them are undeclared**². The rate of undeclared work in PHS reaches 70-90% in countries that have not implemented any PHS supporting policy yet³. As these data show, undeclared work is very common in PHS and, in the absence of policy measures, is very likely to expand given

¹ European Parliament, Committee on Employment and Social Affairs, Draft motion for a resolution on the revision of the European Labour Authority mandate, 2023/2866(RSP), 24 October 2023.

² EFFE Lab, 2023.

³ French Directorate for Trade, Industry and Services (DGCIS) (2011), Etude sur les seices à la personnes dans sept pays européens..

the high demand for PHS and the expected growth of the sector. The prevalence of undeclared economy in the sector is extremely damaging to the State, the workers and the users.

Given that the European Platform tackling undeclared work has become a permanent working group of the ELA as of May 2021, EFSI calls on the European Commission to take into account the following recommendations to evaluate the performance of ELA in terms of objectives, mandate and tasks:

- The European Platform tackling undeclared work should foster targeted and continuous exchanges among peers and of good practices related to PHS. It should issue concrete and detailed policy guidance to Member States on the various preventative and compliance-oriented measures that could target the PHS sector, their efficiency and cost-effectiveness. To maximise the impact of these exchanges, participation should be extended to non-members of the Platform such as Employment and Social Affairs Ministries and Budget Ministries representatives.
- The Platform should address the specific issue of labour inspections in PHS. In most countries, the law requires the consent of the householder or prior judicial authorization to allow access of labour inspectors to private dwellings under provisions protecting individuals' right to privacy. Therefore, the European Labour Authority should foster the exchange of innovative preventive measures successfully implemented in some countries to overcome the limited competence of inspections and/or to obtain the householder's consent.
- Specific guidance on how to implement effective mechanisms for all PHS workers, regardless of migration/residence or employment status, to file a complaint and access remedies should be established as part of the Platform work on PHS. This includes acknowledging the principle of a strict firewall between the duties of labour inspectors and immigration enforcement (no role to enforce immigration law, check or report immigration status, nor joint inspections).
- The ELA should support the implementation by Member States of online information hub providing information to both individuals (as end-users and as workers) and employers on the prerequisites of a formal employment relationships in PHS. It could include checklists on compliance with national tax, labour, and social security legislation. Tackling the language barriers should be addressed by providing information in several languages.
- The ELA should launch a specific EU-wide communication campaign in order to fight social acceptance of undeclared work in PHS.
- The ELA should liaise with other EU agencies (such as Eurofound, EU Agency for fundamental rights, EU-OSHA, etc.) to better explore and analyse the complex relationship between undeclared work and other issues such as labour cost and productivity, unemployment, female employment, migrants (undocumented or not), access to social services and work-life balance measures.

Finally, EFSI welcomes the Belgian Presidency's suggestion to critically evaluate the performance of the European Labour Authority as EFSI believes that its governance rules should be redesigned to ensure that impactful and lasting actions are delivered. Indeed, a comprehensive and long-lasting involvement at EU level is needed to bring effective results.
