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Delegations will find attached document SWD(2026) 985 final.

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COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the document

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2019/1149 establishing a European Labour Authority, Regulation (EU) 2016/589 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System, and repealing Commission Implementing Decisions (EU) 2017/1256, (EU) 2018/170, (EU) 2018/1020 and (EU) 2018/1021

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1. Can the Union act? What is the legal basis and competence of the Unions' intended action?

1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?

The proposal is based on Articles 46 and 48 of the Treaty on the Functioning of the European Union (TFEU).

Article 46 TFEU provides the legal basis for measures necessary to bring about freedom of movement for workers, including through cooperation between Member States. Article 48 TFEU provides the legal basis for measures in the field of social security coordination necessary to facilitate the free movement of persons.

These provisions support Union action to ensure effective coordination, cooperation and enforcement in cross-border labour mobility and social security coordination.

1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?

In the case of freedom of movement for workers and social security, the Union's competence is shared.

The Union and Member States share competence in this area, with Union action and Member State action being complementary. The revision does not seek to replace national responsibilities for labour market regulation, labour inspections or social security systems, which remain primarily under national competence. Instead, it aims to strengthen the capacity of the European Labour Authority (ELA) to support Member States and the Commission in addressing challenges arising from the cross-border nature of labour mobility and social security coordination. It does not fundamentally alter ELA's objectives and tasks, including its supporting role in the context of concerted and joint inspections.

*Subsidiarity does not apply for policy areas where the Union has **exclusive** competence as defined in Article 3 TFEU[1]. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU[2] sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU[3] sets out the areas for which the Unions has competence only to support the actions of the Member States.*

2. Subsidiarity Principle: Why should the EU act?

2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2[4]:

- Has there been a wide consultation before proposing the act?
- Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN
[3] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

The proposal has been subject to appropriate consultation activities, including targeted consultations with relevant stakeholders, a call for evidence, and exchanges with Member States and other relevant actors involved in cross-border labour mobility and social security coordination. This includes the extensive consultation activities already carried out in the context of the 2025 ELA evaluation. These consultations provided input on the functioning of the current framework and on possible improvements to strengthen the effectiveness of ELA and are summarised in Annex 2 of the Impact Assessment.

The proposal is accompanied by an impact assessment and an explanatory memorandum, each containing a detailed section on subsidiarity, supported by qualitative elements demonstrating why the objectives pursued cannot be sufficiently achieved by Member States acting individually and why action at Union level provides added value.
Further details are provided under question 2.2 below.

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

The explanatory memorandum explains that the subsidiarity principle applies because the proposal does not fall under the EU's exclusive competence. The objectives of the proposal cannot be sufficiently achieved by the Member States at national, regional or local level. They can be better achieved at Union level for the following reasons:
Member States acting individually cannot sufficiently address issues with a cross-border dimension, such as those within ELA's mandate. Specifically:

- the provision of high-quality and up-to-date information and services to the public regarding their rights and obligations in cross-border situations needs to be coordinated at Union level to ensure consistent, clear, and efficient messaging;
- the application of Union law in the fields of cross-border labour mobility and social security coordination requires cooperation between Member States, meaning that no Member State can act alone;
- to increase synergies and consistency between Member States in the application and enforcement of Union law and to ensure legal certainty for administrations and individuals alike, it is necessary to develop a coordinated and joint approach at Union level instead of relying on a network of bilateral or multilateral agreements.

Moreover, the identified weaknesses in ELA's mandate are rooted in regulatory issues at the EU level. As they stem from structural deficiencies in Regulation (EU) 2019/1149 itself, they cannot be remedied by Member States alone and require targeted legislative intervention at the EU level.
The additional amendments to Regulation (EU) 2016/589, other than those concerning the repartition of tasks between ELA and the Commission, are intended to simplify the EU-level regulatory framework concerning the functioning of EURES and cannot be implemented by Member States individually for that reason.

The application and enforcement of Union rules in these areas require effective cooperation between national authorities and a coordinated approach at Union level.

As indicated in section 3 of the Impact Assessment, the revision builds on the experience gained since the establishment of ELA and addresses shortcomings identified through its evaluation. While ELA has demonstrated its added value in supporting Member States and the Commission in implementing EU labour mobility policies, the evaluation identified areas

where the existing framework could be strengthened, including in relation to cooperation on inspections, provision of information, mediation, EURES governance and clarity of ELA's role in relation to third-country nationals.

The proposal therefore aims to equip ELA with the necessary legal and operational means to better support Member States and the Commission, while preserving Member States' responsibilities for national labour markets, labour inspections and social security systems. The added value of further Union action lies in ensuring a consistent and coordinated approach to challenges that are inherently cross-border and cannot be effectively addressed through isolated national action or bilateral arrangements.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

No. The objectives of the proposed action cannot be sufficiently achieved by Member States acting alone due to the inherently cross-border nature of labour mobility and social security coordination. Challenges related to the application and enforcement of Union rules, access to reliable information on rights and obligations, and cooperation between national authorities require coordinated action at Union level. While Member States remain responsible for their national labour markets, labour inspections and social security systems, no single Member State can effectively address issues involving several jurisdictions or ensure consistent implementation of EU rules across borders.

The evaluation of ELA confirmed the added value of an EU-level body in supporting Member States and the Commission, while also identifying limitations in the current regulatory framework. These limitations cannot be addressed through national action, as they result from the design of the existing Regulation. Strengthening ELA's mandate and tools at Union level is therefore necessary to improve cooperation, reduce fragmentation, ensure legal certainty and support the effective functioning of cross-border labour mobility.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

Yes. The issues addressed by the proposal are inherently cross-border, as they concern the application of Union rules on labour mobility and social security coordination, which require cooperation between authorities from different Member States. The 2025 evaluation of ELA identified challenges linked to coordination, information provision and enforcement in cross-border situations.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty[5] or significantly damage the interests of other Member States?

Yes. Without effective EU-level coordination, differences in the implementation and enforcement of Union rules may undermine fair labour mobility, create legal uncertainty for workers and employers, and affect the functioning of the internal market. National action alone cannot ensure a consistent approach across Member States.

[5] https://europa.eu/european-union/about-eu/eu-in-brief_en

(c) To what extent do Member States have the ability or possibility to enact appropriate measures?
Member States remain responsible for national labour market policies, labour inspections and social security systems. However, they cannot individually address challenges arising from cross-border situations or establish a coherent EU-wide approach to cooperation, information exchange and enforcement of Union rules.
(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?
The scale and nature of challenges vary depending on national systems, levels of cross-border mobility and administrative structures. However, the underlying issues are linked to the interaction and coordination between different national systems and therefore require coordination beyond the national level.
(e) Is the problem widespread across the EU or limited to a few Member States?
The challenges addressed by the proposal affect Member States to different degrees, depending on their exposure to cross-border mobility and the organisation of their national systems. However, they are Union-wide in nature as they relate to the functioning of the internal market and the implementation of common EU rules.
(f) Are Member States overstretched in achieving the objectives of the planned measure?
Member States have the primary responsibility for implementing and enforcing relevant rules. However, the cross-border dimension of labour mobility and social security coordination creates a need for additional support and coordination at Union level, which cannot be effectively provided through national action alone.
(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
The approaches and priorities of national authorities may differ due to variations in administrative structures, enforcement practices and labour market conditions. EU-level coordination provides a framework to reconcile these differences, facilitate cooperation and promote a consistent implementation of Union rules while respecting national responsibilities. Overall, Member States and national authorities support the existence of ELA and the strengthening of its mandate, as reflected in Annex 2 of the Impact Assessment.
2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?
Yes. The proposal provides clear EU added value by strengthening the capacity of ELA to support Member States and the Commission in addressing challenges that arise from the cross-border nature of labour mobility and social security coordination. Action at Union level allows for more effective coordination, consistent information provision, improved cooperation between national authorities and a more coherent application of Union rules. By reinforcing ELA's role, the proposal improves the efficiency of existing cooperation mechanisms while preserving Member States' responsibilities.

(a) Are there clear benefits from EU level action?
Yes. EU-level action provides benefits by ensuring a coordinated approach to cross-border labour mobility, supporting cooperation between national authorities and providing consistent information and services to workers, employers and administrations across the Union. This could not be achieved without the EU-level action.
(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?
Yes. A specialised EU body can provide support, expertise and coordination that would be difficult to replicate through separate national approaches. A coordinated framework reduces duplication, facilitates cooperation and contributes to the effective functioning of the internal market by supporting fair and predictable cross-border mobility.
(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?
The proposal does not replace national policies or responsibilities. Instead, it provides a common EU framework to support cooperation, improve consistency in the implementation of Union rules and reduce fragmentation in cross-border situations. This contributes to greater legal certainty for workers, employers and administrations.
(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?
The proposal does not transfer national competences on labour markets, labour inspections or social security systems. It strengthens support and coordination at EU level in areas where Member States acting individually cannot achieve the same results due to the cross-border nature of the issues concerned.
(e) Will there be improved legal clarity for those having to implement the legislation?
Yes. The proposal aims to clarify ELA's role and responsibilities, including regarding inspections, mediation, EURES governance and its activities in relation to third-country nationals. This will provide greater clarity for Member States, stakeholders and individuals involved in cross-border mobility situations. The proposal also envisages improving the provision of information to individuals and employers regarding their rights and obligations in cross-border situations.
3. Proportionality: How the EU should act
3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?
The explanatory memorandum contains a justification regarding the proportionality of the proposal. It explains that the proposal is a proportional targeted response to the need to overcome certain shortcomings in ELA's mandate that are currently constraining its ability

to support cross-border enforcement of EU law. It does not go beyond what is necessary to achieve this goal. It does not impose new legal obligations on individuals or employers, does not transfer enforcement competence to the Union level or interfere with national decision-making, legislation, or enforcement activities. Moreover, it leaves wide discretion to Member States in how they make use of the reinforced support offered by ELA in the application and enforcement of Union law. It does not confer autonomous inspection or sanctioning powers on the Authority, as inspections, including those requested by ELA, remain subject to Member States' consent. Similarly, participation in mediation is voluntary for Member States.

The initiative draws on the lessons learned from the 2025 evaluation of ELA. It remains limited to resolving those shortcomings which require targeted legislative changes and cannot be remedied by ELA within the context of its current legal framework. All the other lessons learned through the evaluation are being addressed in an action plan endorsed by ELA's Management Board in May 2026. The Impact Assessment Report accompanying the proposal outlines how the proposal achieves an appropriate balance in meeting its various objectives. This revision is limited to making the necessary mandate adjustments while leaving ELA's core objectives and tasks unchanged.

Amendments to Regulation (EU) 2016/589, other than those concerning the repartition of tasks between ELA and the Commission, do not change any essential elements of the EURES regulatory framework. They merely remove reporting obligations and administrative burden, where these are not required for the efficient functioning of the EURES network.

As indicated in section 7 of the Impact Assessment, the proposal respects the principle of proportionality by limiting EU intervention to what is necessary to achieve the identified objectives, while preserving Member States' responsibilities and existing cooperation mechanisms. The preferred options introduce targeted improvements rather than fundamental changes, addressing specific shortcomings identified in the current framework.

The proposed changes focus on improving information provision, clarifying governance arrangements, strengthening ELA's support and coordination role in inspections, and simplifying mediation procedures. These measures enhance the effectiveness of ELA while maintaining the voluntary nature of Member State cooperation and ensuring that intervention remains proportionate to the challenges identified.

3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?

Yes. The proposed action is an appropriate and proportionate means to achieve the objectives of strengthening fair labour mobility, improving cooperation between Member States and enhancing ELA's capacity to support the Commission and national authorities. It focuses on addressing identified shortcomings in the current framework while preserving Member States' responsibilities and limiting intervention to areas where EU-level action provides clear added value.

(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?

Yes. The initiative focuses on challenges with a clear cross-border dimension, such as cooperation between authorities, information provision, inspections and mediation in the context of labour mobility and social security coordination. These issues cannot be effectively addressed by Member States acting individually, while ELA is well placed to provide coordination and support at Union level.
(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?
Yes. A revision of the existing Regulation (EU) 2019/1149 is the most appropriate instrument, as the identified shortcomings relate to the legal framework establishing ELA itself. The proposed changes are targeted and limited to what is necessary to improve ELA's effectiveness, ensuring a proportionate and coherent intervention while avoiding unnecessary regulatory complexity.
(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument og approach?)
Yes. The proposal does not harmonise national labour market policies, labour inspection systems or social security schemes. It preserves Member States' responsibilities and decision-making powers, while providing a common framework for cooperation and support in areas where cross-border coordination is required.
(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?
The proposal entails limited additional administrative and operational efforts notably for ELA, linked to strengthened coordination, information provision and support activities. These costs are proportionate to the expected benefits for the different stakeholders, mostly non quantifiable, of improving the functioning of cross-border labour mobility, reducing administrative fragmentation and ensuring more effective implementation of Union rules.
(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?
Yes. The proposal takes into account the diversity of national labour market systems, administrative structures and enforcement arrangements. It provides a flexible framework for cooperation and support, allowing ELA to assist Member States while respecting their different national contexts and responsibilities.