

## **The cooperation agreement between the Spanish Labour and Social Security Inspectorate and the Portuguese Labour Inspectorate**

**Autoridade para as Condições do Trabalho (ACT)**

**Work Conditions Authority**

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### **1. Observations and motivations**

The **Working Conditions Authority (ACT)** was created on October 1, 2007, within the framework of a public administration restructuring programme and joined the expertise of two bodies: the Inspectorate General of Labour (IGT); and the Institute for Safety, Hygiene and Health at Work (ISHST).

ACT brings together technical skills in targeting prevention and the competency of an inspection service. Its mission is carried out in two main areas:

- promotion of improved labour conditions through prevention and checking that standards are applied;
- promotion of policies to prevent occupational risks.

### **Agreement to exchange information between the Spanish Labour and Social Security Inspectorate and the Portuguese Labour Inspectorate**

An increase in the posting of Portuguese workers to Spain has resulted in frequent irregularities as concerns worker discrimination, work safety and health conditions, salaries, duration of working hours and labour traffic.

On October 3, 2003, the Spanish Labour and Social Security Inspectorate and the Portuguese Labour Inspectorate thus signed an agreement to exchange information and promote cooperation as a way to establish **permanent collaboration** between government authorities in both countries.

## 2. Agreement goals

The agreement provides for several axes of cooperation, in particular with respect to the exchange of information. These axes concern:

- **prevention of occupational risks** and work accidents; irregularities observed concerned companies in a neighbouring country with activities in Spain or Portugal;
- **company identification elements** and **sanction proceedings** initiated against them; this information is particularly important when it is difficult to identify the head office (especially for small and medium-sized companies and companies in the road transport sector);
- **movement of workers from countries outside the European Union** (work visa when these workers move temporarily to work in Spain or Portugal for companies with a head office in a neighbouring country);
- **companies which post workers** and the **posted workers themselves**, within the framework of cooperation and technical assistance implemented in application of Directive 96/71/CE.

According to the terms of the agreement, the two inspection systems exchange information on the movement of workers across the border between the two countries, in particular in the following cases:

- posted workers in the neighbouring county in the context of supply of services;
- workers who cross the border daily;
- workers who move for two or three months to exercise an activity in the agricultural sector.

A technical handbook on the control of Portuguese companies posting workers was prepared in 2009 by the two institutions.

## 3. Method implemented

For the practical application of the agreement and tracking of the measures adopted, a **Joint Surveillance Commission** was created. This commission met for the first time in 2004. It is presided alternately each year by one of the two countries.

## 4. Type of actions

The main cooperation actions concern:

- encouragement of information exchange and distribution of this information within the two institutions;
- intervention of social partners, in particular in areas where supply of services by Portuguese companies or the use of Social Security forms has been previously communicated to Spanish authorities;
- control of law enforcement, in particular through joint inspection visits;
- collaboration of the two institutions to ensure more effective penalty proceedings;
- training of labour inspectors;
- targeted actions to check the situation of companies posting workers.

## **5. Feedback**

In the context of application of the agreement signed in 2003, the two inspectorates have gradually increased their cooperation efforts to improve the flow of information related to workers and companies.

Information published in the press concerning situations of discrimination of Portuguese workers posted in Spain in violation of legal provisions (duration of working hours, salaries and occupational health and safety conditions) led the two inspection systems to a joint decision to target their control interventions on sectors of activity where the most serious irregularities had been noted: agriculture, forestry and construction.

Contact intensification has enabled inspectors in the two countries to participate in joint visits, better understand respective inspection procedures and standardise types of intervention, for example in the way occupational accident inquiries are carried out.

The Accept Project to support competitiveness and improve employment quality (2010) concerning Galicia in Spain and northern Portugal has enabled coordinating interventions between institutions in the two regions.

The two public authorities agreed that medical certificates delivered by occupational health physicians from Portuguese health services would be valid for exercising a professional activity in Spain, on the condition that these certificates correspond to the professional category and the work to be done.

Spanish authorities send ACT the list of Portuguese companies which have notified them about cross-border posting of workers.

The Fifth (Braga), Sixth (Santiago de Compostela) and Seventh (Sintra) meetings of the Joint Surveillance Commission established by the agreement led to operational decisions allowing the reinforcement of bilateral relations:

- appointment of a person from the commission to take charge of the continued steering of cooperation actions;
- centralised collection and analysis of information concerning joint control actions in the border area;
- revision of the technical handbook;
- mutual recognition of professional categories in the construction sector;
- a specific training plan for inspectors in Spain and Portugal;
- transfer of knowledge and skills acquired by participants in the “Euro Posting” project to improve controls.

The partners also agreed on the need to organise information actions (regional workshops) and standardise inspection procedures (control of salaries and services).

#### **6. Axes for developing cooperation**

- Development of an exchange of information concerning posted workers by building a communication network and relays at the regional and local levels;
- Intensification of joint control actions, particularly in border areas and in areas where posted workers are concentrated (according to worker flow, geographical area and sector of economic activity);

Identification by partners of initiatives leading to multilateral improvement of administrative cooperation between competent institutions of public administration in the member countries:

- o Implementation of a computer tool for control authorities;
- o Development of a database for identifying the documents necessary for verifying the regularity of a company situation and of workers.