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Tough Work, Tough Conditions?

Cross-border labour mobility under the microscope

Dear readers,

Around 17 million EU citizens currently live and work in other EU countries, supplemented by a growing number of non-EU citizens who are working here on a temporary basis. These people play an important role in closing the skilled labour gaps and ensuring that the economy performs well. However, the working conditions in some sectors do not always meet European standards.

Road haulage, in particular, has repeatedly come under scrutiny in recent years. This was clearly demonstrated by the protests held at the Gräfenhausen motorway service area in Hesse in 2023. The reason for the protests was outstanding wage payments from a Polish company. The first strike ended after the wage demands were met through negotiations that were held with support from the European transport workers' unions. The German Supply Chain Act probably played a decisive role in resolving the conflict during the second strike. This resulted in the companies that were part of the supply chain paying the outstanding wages and not the actual haulage company.

Gräfenhausen is not an isolated case, and politicians are also aware of these cases. This is why Brussels has not remained inactive in recent years and has tightened European regulations throughout Europe with laws such as Mobility Package I and II and the EU Corporate Sustainability Due Diligence Directive. Moreover, the European Labour Authority (ELA) has been created to assist in the implementation and enforcement of these rights. However, challenges remain in ensuring fair working conditions across the board.

Road haulage is not the only sector in which working conditions fall short of European standards. Violations are also seen in the agriculture, care, construction and food sectors. Their employees are increasingly coming from third countries. In view of the shortage of skilled workers in Europe, the question of how to deal with these people now arises. If this situation does not change, there might soon be no one left who is willing to take on these jobs, which are so important for our society and the internal market.

If we want people from all over the world to come and work for us, then we must ensure that good and fair working conditions are guaranteed throughout Europe. What opportunities exist that will improve the situation in the coming years? Do we need more European regulation or is it due to a lack of enforcement? We want to explore these and other questions in our latest ed*. We have taken a closer look at some of the sectors that have been criticised in the past, such as agriculture, construction, the food industry and road haulage.

I hope you enjoy reading this issue.

Yours faithfully,



Ilka Wölfle
Director

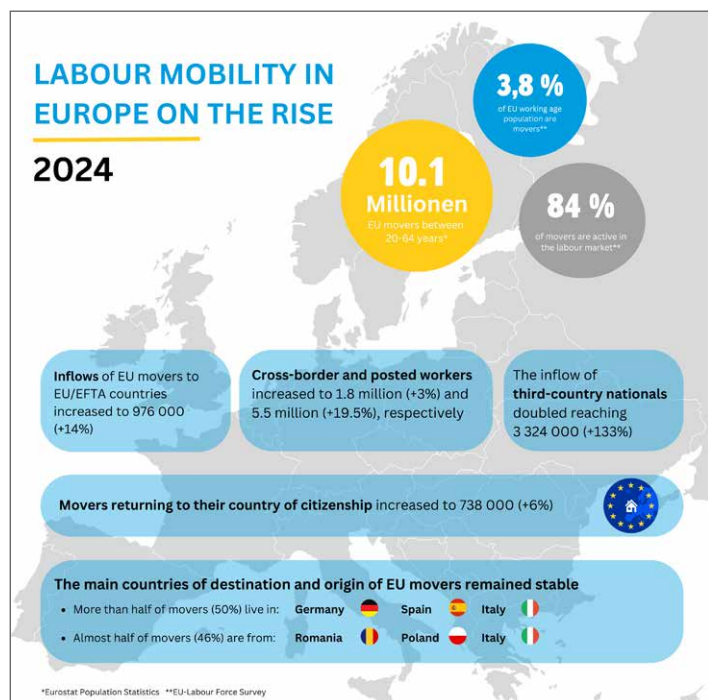
Competition and prosperity need fair working conditions

The European Commission presented its “Compass for Competitiveness” on 29 January as a result of the stirring report about EU competitiveness that was prepared by Mario Draghi, the former president of the European Central Bank. It emphasised the importance of fair mobility as well as the recruitment and integration of qualified skilled workers from abroad as being a priority for strengthening Europe’s competitiveness. Demographic change is also putting increased pressure on the labour markets. Germany and Europe are becoming increasingly dependent on well-trained, skilled workers from abroad in order to remain competitive and prosperous. Good working conditions, adequate laws and effective enforcement and implementation of applicable regulation are essential here.

Gräfenhausen – more than just refuelling and resting

Europe must offer attractive jobs if it wants to attract people from abroad. The wages and working conditions have to be right. This is not always the case. This became apparent in 2023 at the Gräfenhausen motorway service area on the A5 near Darmstadt. Up to 120 drivers staged a protest there for payment of their wages, and 30 of them were temporarily on hunger strike. The protest action was ended after more than two months. The drivers did receive some of their outstanding pay, not from their Polish employer, but from actors in the supply chain. It was the second strike of its kind.¹

Loud protests are the exception. In most cases, the people – many of whom come from accession countries in the Balkans and non-EU countries such as Afghanistan, Azerbaijan, Belarus, Georgia, India, Iraq, the Philippines, Syria, Ukraine, Uzbekistan as well as from Africa – remain in the background. They neither know their rights, nor do they speak our language. They are often reliant on the low wages, as there is no work in their home countries, but they still have families to support. It is difficult for them to find someone responsible if they work for.



Source: European Commission: https://employment-social-affairs.ec.europa.eu/document/download/35e06fad-1cf3-4d79-bc52-5bdf9b9d3a9_en?filename=Infographic_v3.pdf (reproduced)

¹ In April 2023, 60 drivers from the same transport company made a permanent stop at the motorway service area and went on strike to demand their wages. It was only after a six-week struggle that their employer was willing to reach an agreement.

“Protection requirements must also be complied with even in precarious employment relationships, and exploitative working conditions must be prevented. In addition to the existing legal framework, which combines punishing the perpetrators with protecting those affected, this also requires good networking between the key stakeholders. I am committed to this.”



Heike Hofmann, Minister for Labour,
Integration, Youth and Social Affairs in Hesse

Exploitation has many faces

Those who are unfamiliar with the system are more likely to become victims of legal violations at work. The range of possible violations of labour law is extensive, i.e. evading minimum wage legislation, unjustified wage deductions, unpaid overtime as well as lack of social security and in consequence lack of benefit entitlements. Break times and working hours are disregarded, employee accommodation is cramped and expensive – and those who resist sometimes run the risk of being threatened and even losing their jobs.

Yet Europe means well! The EU has taken important steps towards realising social justice and social security by establishing minimum standards applicable to working conditions. Every employee in Europe has the right to healthy and safe working conditions. However, real working conditions – not only in freight haulage – sometimes contradict this.

Heike Hofmann was in Gräfenhausen at the time and spoke with the drivers. Today, she is Minister for Labour, Integration, Youth and Social Affairs in Hesse. She knows that networking the key actors is required so that the relevant laws can be implemented. This is why her ministry is organising the “Stopping human trafficking and labour exploitation” round table, which will bring together the Ministry of the Interior and the Ministry of Justice as well as the customs authorities, social partners and specialist advisory centres.



Roxana Minzatu, EU Commissioner for Social Rights and Skills, Quality Jobs and Preparedness

“We have to pay particular attention to the most difficult contexts, such as complex and long subcontracting chains. We also must work towards implementing effective measures for combating abusive subcontracting in Europe and ensure fair rights for all workers.”

The EU has good laws

The EU Framework Directive on occupational safety and health provides a crucial legal foundation for protecting the health and safety of employees. It also obliges employers to run risk assessments, implement measures to prevent risks and to develop safety concepts. They are supplemented by various specific guidelines, some of which are actually sector specific. There are also special rules applicable to road haulage.²

Posted workers have the same protection rights as local workers. The Posting of Workers Directive contains binding rules regarding employment and working conditions.

- ² Road haulage protection requirements are formulated in [Directive 2003/10/EU](#) about noise and [Directive 90/269/EEC](#), which aims to reduce dangers when moving loads manually. Driving times, breaks and rest periods for drivers are regulated under [EU Regulation No. 561/2006](#).
- ³ By following this model, the European Commission submitted a [proposal for a regulation](#) in December 2024 that would make this IMI interface accessible to other sectors.

Posting notification

The posting notification should contain personal and company-related data, including the location and the duration of the service. Each member state decides exactly what this includes. The employer must notify the authorities in the country of posting in advance using the national online notification portals. In Germany, this is the Costums's

Minimum Wage Notification Portal. Since 1 July 2023, road haulage and passenger transport companies that have an EU Community Licence required for Europe-wide transporting have been able to do this by using a standardised process that is an electronic interface included in the EU's Internal Market Information System (IMI).³

Its enforcement directive was adopted in 2014 in order to improve the practical implementation of the posting rules. This has led to an increased focus on control and monitoring issues, as well as joint liability in subcontracting chains. EU Directive 2020/1057 also formulates exemptions from the posting rules for the road haulage sector, e.g. for both goods and passenger transit traffic.

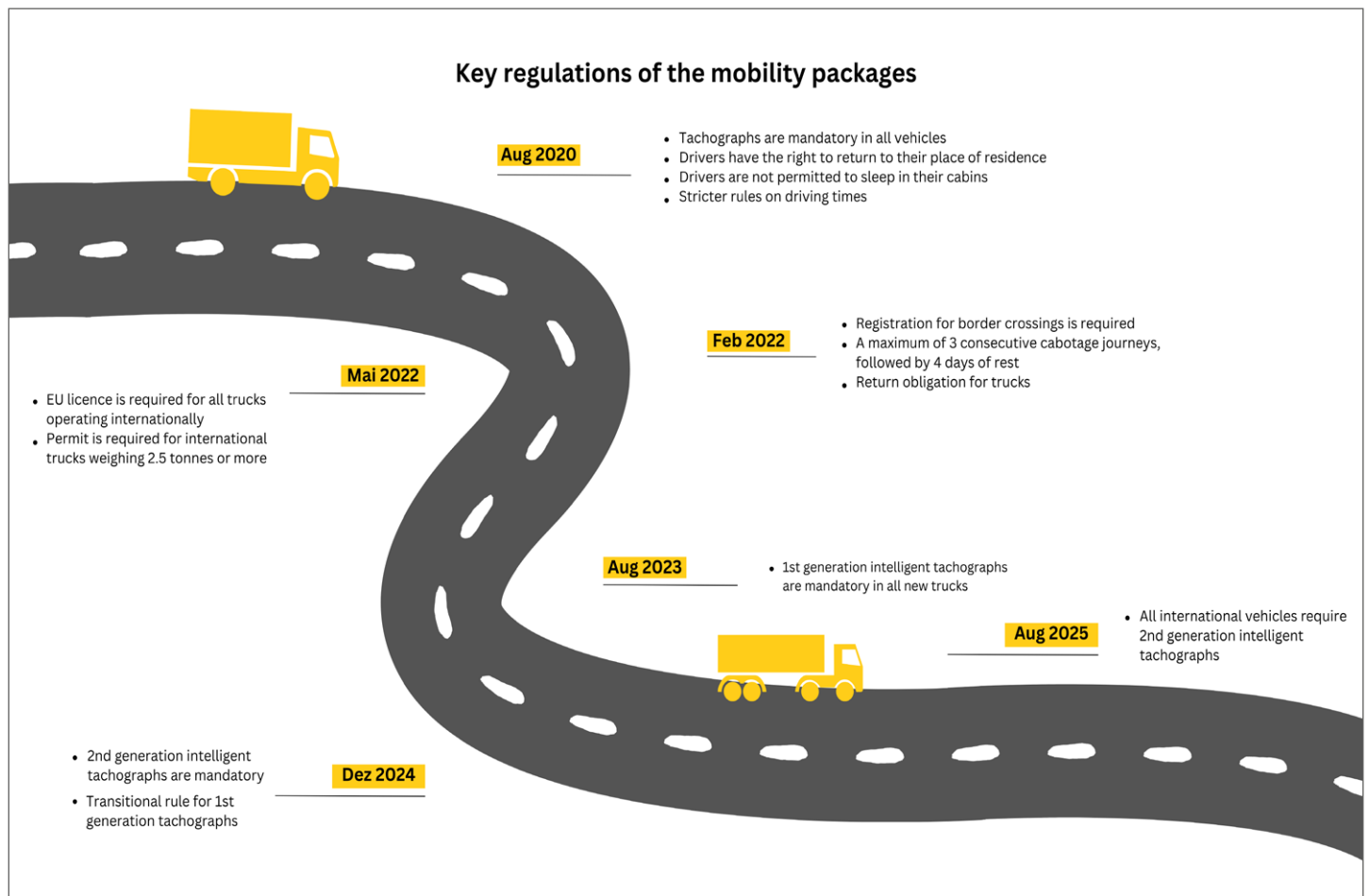
The problems on Europe's roads have resulted in the EU tightening its rules. Mobility Package Part I included a regular right for drivers to return to their place of residence, and a ban on cabin

sleeping came into force on 20 August 2020. Stricter rules have also been applied to exceeding driving times since then. Mobility Package II introduced longer rest periods, which have been mandatory since 21 February 2022 if the lorry is loaded and unloaded in the same foreign country. Border crossings must be documented in the tachographs. The minimum wage of the host country has generally applied, with a few exceptions, e.g. for transit journeys, since February 2022. The final provisions of the Mobility Package will come into force in the middle of this year.

Controls are essential

Controls are needed in addition to good laws to ensure that the law is complied with. In principle, this is a national matter. In Germany, in addition to the labour inspectorate and the employers' liability insurance associations, the Customs' Financial Control of Undeclared Work Unit plays a central role in Germany as it is the authority that monitors cross-border work. Its almost 9,000 employees combat undeclared work and illegal employment. 80 per cent of its staff are involved in auditing

Key regulations of the mobility packages



employers and investigating violations. During their investigations they work closely with the local police, the federal police and the public prosecutor's office as well as with German Pension Insurance and the tax authorities.

The German Federal Logistics and Mobility Office is also working in the road haulage and passenger transport sectors to increase safety during road freight transporting, promote environmental protection and ensure market order through inspections and support programmes. Its responsibilities also include monitoring driving times and rest periods, as well as implementing penalty proceedings against foreign drivers.

However, the responsible authorities are often unaware of the contracts or the rules to which the drivers are subject. They are dependent on information from the affected workers, the population and trade unions as well as exchanges with the responsible authorities abroad in order to be able to prosecute and sanction abuses and violations of the law.

The issuing or renewal of the mandatory Community Licence can also be refused in the road haulage sector, in addition to law infringement penalties. Moreover, driver certificates for drivers from third countries can be withdrawn. The Gräfenhausen case had no consequences for the haulage company with regard to this. Apparently, the relevant authority in Poland did not have the will to do anything.

The trade unions have criticised this: they say that there is inadequate monitoring. A study by the Catholic University of Leuven from December 2024 underlines this accusation: there is often a disparity between the political announcements about combating "social dumping" and the low number of controls and inspectors that are needed for enforcing the posting regulations.

However, there is also a lack of systematic collecting and reporting of monitoring statistics about enforcing the posting rules, both at European level as well as in most member states. A need to catch up also exists here, so that politicians can be provided with a sound decision-making basis.

Precarious working conditions also exist in the construction sector

The construction sector, which employs around 13 million people throughout the EU, is subject to fierce competitive pressure, resulting in harsh conditions. In this sector, too, companies throughout Europe are often dependent on skilled labour from abroad. Almost one in three construction workers in Germany come from Eastern Europe. Only one in ten is a posted worker with a foreign employment contract. Third-country nationals are increasingly being hired. A network of non-transparent and ever-lengthening subcontractor chains is responsible for the poor working conditions. The statutory minimum wage and labour laws are often circumvented. This is because not only the general contractor and all the subcontractors want to earn something. The longer the chain, the less money is available to the company that ultimately carries out the work.

The most dangerous workplace in the world

During 2022, 22.9 per cent of all fatal workplace accidents in the EU occurred in the construction sector.⁴ One year later, there were almost 97,000 workplace accidents at German construction sites, with 76 of these resulting in fatalities. 35 of the dead workers came from abroad.⁵

Proof of social insurance: The A1 certificate

EU rules on the coordination of social security determine which national social security system applies in the event of temporary cross-border activities. If the social security system of the country of origin applies, then this must be documented through an A1 certificate. This must be applied for beforehand and carried along during the work posting. If an employee is unable to produce the A1 certificate, then they might have to be insured in the country of employment and pay contributions there. The A1 certificate is not to be confused with the posting notification required under labour law but is often referred to as such colloquially.

⁴ [Accidents at work statistics – Statistics explained](#)

⁵ [ZEIT No. 50/2024, updated on November 29 2024, 15:47](#)



Gabriele Bischoff, Member of the European Parliament

“Fair mobility remains an empty promise for too many workers as long as there are no effective controls or real-time cross-border information exchanges. Those who support a European labour market must also support a better coordination of social security systems and the transferability of entitlements.”

Trade union remedies against exploitation

Those affected can find support from advisory services such as Fair Mobility, an advisory network provided by the German Trade Union Confederation, which was launched as a project by the Federal Ministry of Labour and Social Affairs in 2011. Help is also available from the European Migrant Workers Union or the PECO Institute. Most of the advisory work deals with wage fraud as well as the lack of social security. Trade unions such as the German IG Bau also support those affected in collecting their wages under general contractor liability when subcontractors are arrested as a result of investigations by public prosecutors and customs authorities.

The trade unions' demands are: strong collective agreements, more and better monitoring, binding checks at the time of contract awarding, better equipment for the Financial Control of Undeclared Work Unit, creation of a uniform labour inspectorate in the medium term, a right to sue for trade unions under labour law and a binding limit on subcontractor chains. Cooperation between the supervisory authorities in the member states involved should be improved at European level, and the ELA should be strengthened. Pre-notification of the A1 certificate should become mandatory, with a few exceptions, in order to make on-site inspections more effective.⁶ Furthermore, the trade unions recommend using digital tools to combat social security fraud.

⁶ The exceptions to pre-notification of the A1 certificate are discussed in the context of the revision of the Coordination Regulations EU 883/2004 and EU 987/2009 that have been unsuccessfully disputed between the European Parliament and the Council for eight years.

Gabriele Bischoff (S&D) is the rapporteur of the dossier about revising the regulation on the coordination of social security systems, and she is also in favour of mandatory prior notification of the A1 certificate. Critics are opposed to this as it would result in excessive bureaucracy. Many hope that digitisation of the A1 procedure will defuse the conflict and finally bring about an agreement in the faltering negotiations about reforming EU coordination rules. With the involvement of German social insurance funds, work is currently underway on two projects related to the European Social Security Pass (ESSPASS) to fully digitalise the A1 procedure.

Digital monitoring – there are good examples in Europe

Some digital monitoring tools already exist today. For example, in the construction sector. Sweden, like Finland, relies on digital access to construction sites, which also enables verification of qualifications as well as the validity of the A1 certificate and the EU residence permit for non-Swedish workers. In Austria, the focus is on checking the employment status of workers. Through the so-called Bau ID, all the data required for inspections by the control authorities are updated and can be retrieved daily. Belgium, Lithuania and Romania also use social ID cards.⁷

Agriculture is under pressure

The number of family farms is shrinking and dependence on migrant labour is increasing. Ensuring fair labour standards is becoming increasingly important, according to the European Committee of the Regions. Posted workers usually have long working days with high performance requirements, but gaps exist in social security and occupational safety. Independent reporting bodies are needed to monitor working conditions, particularly in the supply chains, which, with the support of trade unions, will ensure that all agricultural workers are adequately represented and protected.

This is because the employees' need for protection is high. The number of accidents, fatal injuries and poisonings caused by pesticides is higher amongst agricultural workers than in other occupational groups⁸ and it is even higher amongst migrant workers than amongst domestic workers.⁹ Climate change is putting an increasing strain on working in the fields through heat and radiation. A study by the European Agency for Safety and Health at Work also points to the high prevalence of musculoskeletal problems.¹⁰

European Labour Authority (ELA)

The ELA is to help member states apply EU labour mobility rules – free movement, posting and coordination of social security systems – in a fair, simple and effective way. It started organising checks and inspections in 2021 to combat undeclared work, initially in the road haulage sector and then in the construction sector. The European Parliament wants it to do this on its own initiative in the future.¹¹ Furthermore, the European Parliament demands an extension of its mandate to include employees from third countries. It is currently not authorised to take action for this group of people.

8 Klingelschmidt, Justine, et al. Suicide amongst agricultural, forestry, and fishery workers: a systematic literature review and meta-analysis, Scandinavian Journal of Work, Environment & Health, vol. 44, No. 1, 2018, pages 3-15. Barbosa Junior M., Sokulski C.C.

9 Occupational Fatalities amongst International Migrant Workers, International Organisation for Migration, 2021; Migrant workers occupational health research: an OMEGA-NET working group position paper, 2021.

10 Risk assessment of upper limb musculoskeletal disorders in agriculture: compared experiences. https://osha.europa.eu/sites/default/files/Risk_assessment_upper_limbs_agriculture_INAIL.pdf.

7 https://www.ela.europa.eu/sites/default/files/2024-04/RO_good-practice_ID-cards.pdf; https://www.constructiv.be/de-DE/Arbeitgeber/ConstruBadge.aspx; https://statreg.lt/en-us

11 European Parliament resolution of 18 January 2024 about revising the mandate of the European Labour Authority (2023/2866(RSP)); https://www.europarl.europa.eu/doceo/document/TA-9-2024-0052_EN.pdf



Anja Piel, member of the National Executive Board of the German Trade Union Confederation and alternating Chairwoman of the Board of the German Federal Pension Insurance

“Unfortunately, people with a migration background still disproportionately often end up in insecure and poor employment with low wages”.¹²

Social insurance helps

Farmers can find help. In Germany, the SVLFG as agricultural social insurance institution can provide specific information about risk factors and risk assessment guidance, as well as programmes for preventing illnesses. Products that increase occupational safety will be subsidised.

No social security, no money!

The EU recently introduced a “social conditionality” instrument to combat social dumping. This instrument is part of the EU’s Common Agricultural Policy (CAP), and links EU funding to compliance with social legislation. As part of the recent CAP reforms, it stipulates that from this year onwards, non-compliance with labour and occupational safety and health rules will result in reductions in the payments granted. A risk of unfair competition still exists here, as the member states can decide on the scope of the sanctions by themselves.

Meat and sausages also involve consumer protection

The food industry is one sector in which occupational safety and health are especially important. The requirements to protect workers from chemicals, dust, heat, moisture, noise, vapours and injuries must always be brought into line with the strict hygiene regulations that protect food safety as well as the consumers.¹³

The meat industry, in particular, has been repeatedly criticised. An opaque network of subcontractors, dumping wages, 12- to 16-hour

¹² Quoted from taz, 22 July 2024, 18:10. Anja Piel

¹³ The basic hygiene requirements can be found in EU Regulation No. 852/2004 about foodstuff hygiene and in EU Regulation No. 853/2004 with specific hygiene regulations for food that originates from animals.

shifts, harassment and inadequate workplace safety and health have all dominated the news. One person who has been particularly criticised is Clemens Tönnies, a meat manufacturer based in Rheda-Wiedenbrück in East Westphalia. He attracted attention during the COVID-19 pandemic, when the number of infections in his company skyrocketed. The federal and state governments jointly intervened, and banned subcontracting contracts in slaughterhouses as well as in cutting and meat processing facilities. Today, Tönnies has improved his reputation by investing in workplace safety and health, setting up a staff unit that deals with communication and language barriers, implementing a ten-point plan for improved spacing on and between the production lines and offering collective wages. Lorry drivers now have sleeping quarters on the factory premises. Dennis Radtke, Federal Chairman of the German Christian Democratic Employees' Association and Member of the European Parliament, saw the improvements for himself in autumn 2024.

Outlook

Solid working conditions are an important competitive factor. If Europe wants to secure its prosperity, it must be able to guarantee them. Especially regarding foreign workers, on whom an ageing Europe is heavily dependent. However, legal regulations are not enough; we must also ensure that they are enforced. This also includes ensuring that the responsible authorities conduct effective controls and impose sanctions to combat criminal behaviour and precarious working conditions, thereby protecting Europe's values.

Forces must be pooled and cooperation – including cross-border cooperation – must be ensured whenever the authorities in the member states find themselves unable to cope. The ELA has been established as a



“A few weeks ago, following my election as Federal Chairman of the Christian Democratic Employees’ Association within the Christian Democratic Union, I visited one of Europe’s largest meat processing companies, the Tönnies Group in Rheda-Wiedenbrück, to learn about working conditions and occupational safety and health. It’s a completely different situation today when compared to that of five years ago. Everything is being done here to ensure good and safe jobs and the production of high-quality food”.

European agency that can play a valuable role in combating social dumping and undeclared work. We need the necessary political will if we want to credibly combat exploitation. Valid and comparable data about postings could make political action more transparent and effective. Last but not least, working people – whether they are behind wheels, in slaughterhouses or on construction sites – must be advised and supported. The multilingual assistance and counselling services created by the trade unions in recent years show that this can be achieved.

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