



Communication plan for enhance enforcement of Posting Directive

Project: “Promotion of transnational cooperation among stakeholders and dissemination of best practices to enhance the enforcement of the European legislation regarding posted workers and posting issues”, (Reference: NR VS/2016/0024)

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List of abbreviations

EC European Commission

EEA European Economic Area

EU European Union

IMI Internal Market Information System

PD A1 Portable Documents A1.

PWD The Posting of Workers Directive



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1. INTRODUCTION

1.1. CONTEXT

EU Posted workers policy reform and implementation has lot problems across the Member states, varying from legal regulation to administrative capacities to control market. Policy studies reveals that posting of workers policy is very complex, influence by social, political, cultural factors. Posting of workers is related with negative effects or abuse like social dumping, misuse of PD A1 forms, bogus self-employment and letterbox companies. Thus, problems in regard to posting issues highlight the need for a policy adjustment. On the other hand, there are discussions about the need to balance valid workers' social rights and freedom to provide cross-border services. Lastly, the issues of posting are very "vulnerable" politically and highly debated in some countries. These debates often demonstrates low public awareness relevant to posted workers policy issues. The cooperation is vital between competent state authorities and the social-economic partners for increasing policy effectiveness and solving posted workers problems. The new partnership networks could solve spectrum of problems, starting with raising social awareness and ending with joint inspections between labour inspectorate and social - economic partners.

1.2. THE AIM OF THE RECOMMENDATIONS

The situation analysis will assess the communication effectiveness competent state institutions and social - economic partners by assessing administrative gaps and identifying opportunities for development. The communicative strategy will be proposed as problem solving tool. The recommendations will be based on this situation analysis in Poland and Baltic states.

The situation analysis and recommendations are relevant to the project ("Posting of workers: enhancing administrative cooperation and access to information, Reference: VP/2015/007) aim, - increase the accessibility and transparency of the information combining forces of competent authorities and social partners of 4 Member States in order to enhance the implementation, application and enforcement of Directive 96/71/EC2 and its Enforcement Directive 2014/67/EU concerning the posting of workers in the framework of the transnational provision of services.

The situation analysis will provide project partners and stakeholders with key findings and lessons based on a clear set of evidence. It will present those findings and lessons, along with a set of detailed recommendations.

1.3. PURPOSE OF THE RECOMMENDATIONS

During the present situation analysis classification of documentary source facts, synthesis, logical analysis, and document interpretation have been performed. The informative basis of the sources was comprised of the opinion research of project implementers and interested actors, as well as the data collected during monitoring. The

data obtained has been evaluated taking into consideration the threats related to lack of data and their reliability.

The analysis of primary and secondary sources. The data analysed (interim activity reports, descriptions of consultation, discussion panels etc) and also statistical data.

The use of the in-depth interview method. The interview method (in the present evaluation, both individual and group interviews have been applied) has been used in order to collect data on situation analysis problem. emphasizing the opinions and criticism of the project participants as well as analysing the experiences of partnership and cooperation with external actors. This method helped analysing other data in greater detail and allowed defining situation analysis questions more accurately. In-depth interviews are useful in the sense that they provide individuals' rather than group perspectives of project participants, interested actors, etc., These are effective qualitative research methods in order to influence people (target group members of the project, and interested actors/partners) to open up about their participation, opinions, and experience. They provide the possibility to discuss how people perceive the use of project resources, activity processes, and results. This can be achieved focusing on participants' explanations on what they have experienced and what they believe in, as well as questioning them on the relationship and attitudes, which are highlighted among certain events, processes, and beliefs.

The information was obtained from Project Management Group (mainly PVMC). The project documents, reports, practitioners in activities lists, teaching material (training manuals), dissemination material (leaflets), project dissemination on websites.

Analysis is based upon data collected through qualitative. The consultations with experts started in 2016. Primary information and ideas for analysis was collected by conversations and discussions by involvement of international group of experts. The deeper qualitative research was conducted by telephone and by e-mail interviews in 2017. In addition, interviews were carried out with the experts (labour inspectors, experts working with posting issues) as well some trade union and NGO representative. In total, this methodology is based on the data of 11 individual experts interviews and one focus group.

No.	Code	Interviewee
Representatives from Labour inspectorates responsible for IMI systems		
1.	LT1	Senior Labour inspector, State Labour Inspectorate of Lithuania (50 minutes)
2.	EE1	Chief lawyer, Labour Inspectorate of Estonia (40 minutes; consultation by internet)
3.	LV1	Leading legal adviser, State Labour Inspectorate of Latvia (30 minutes)
4.	PL1	Chief Labour Inspectorate, National Labour Inspection of Poland (reply in written form)
Interview with experts from international group		
1.	EE2	Liis Vaino, ETTA - Estonian transport workers union (45 minutes)

2.	PL2	Karol Nosal, The Independent and Self-Governing Trade Union Solidarność (reply in written form)
3.	LT2	Kristina Krupavičienė, LPS „Solidarumas“, Lithuanian trade union “Solidarumas” (25 minutes)
4.	LT3	Ramunė Mereckienė, PVMC - Project Management and Training Centre (40 minutes)
Interview with other experts		
1.	EE3	Jaan Hendrik Toomel, ETTA - Estonian transport workers union (45 minutes)
2.	LV3	Martins Dunsķis, LCA, - Latvian Builders' Trade Union (30 minutes)
3.	LT4	Vaidotas Petronis, PVMC, - Project Management and Training Centre (40 minutes)
Focus group with experts from international group		
1.	LTf	1) Sigitas Besagirskas, LPK, - Lithuanian Confederation of Industrialist; 2) Albertas Ŗimkevičius, VPVA, - Vilnius Industry and Business Association; 3) Audrius Cuzanauskas, - Lithuanian road haulage drivers' trade union 4) Vaidotas Petronis, PVMC, - Project Management and Training Centre; 5) Ramunė Mereckienė, PVMC - Project Management and Training Centre (60 minutes)

The most of the interviews were audio-recorded or received by email. Taking into consideration the respondents' request, a part of the interviews were not audio-recorded (notes were taken during the interview).

The most important transcribed interviews are set out in Annexes 1 to 5.

2. MAIN FEATURES OF PARTNERSHIP IN BALTIC STATES AND POLAND

2.1. BACKGROUND

In perspective of posted workers policy implementation, the area is based on operation of special agencies and specific networks of other actors. This network has some disadvantages in terms of cooperation. National public agencies have formal independence in assurance of single market functioning. In the same time, their regulatory effectiveness depends on administrative cooperation on EU or bilateral level as well national level. The policy implementation is partially based on horizontal cooperation. The researches identify four main cooperation types:

- 1) administrative on EU level (mostly between labour inspectorates as well others called competent authorities);
- 2) administrative cooperation on national level (labour inspectorates, social insurance boards, tax authorities. In some countries outside actors are involved i.e. trade unions, NGO);
- 3) policy formation level cooperation (governments, political parties, responsible ministries and social partners. This cooperation mode is identified on national and EU levels)¹.
- 4) Informal cooperation based on information sharing (on national level).

2.2. CONCEPTUAL FRAMEWORK

The research studies gives evidence that the cooperation between competent institutions (state institutions responsible for policy formation and implementation i.e. labour inspectorates, social insurance boards, tax authorities, responsible ministries) and social – economic partners is important for public awareness raising and solving problems with social dumping, misuse of PD A1 forms, bogus self-employment and letterbox companies². On the other hand this cooperation is

¹ Hartlapp, M., & Heidbreder, E. G. (2017). Mending the hole in multilevel implementation: Administrative cooperation related to worker mobility. *Governance*; Hartlapp, M. (2014). Enforcing social Europe through labour inspectorates: Changes in capacity and cooperation across Europe. *West European Politics*, 37(4), 805-824; Kullmann, M. (2015). Enforcement of labour law in cross-border situations. A legal study of the EU's influence on the Dutch, German, and Swedish enforcement systems. Deventer: Wolters Kluwer; Wall, G. (2016). *Linked National Public Authorities—a Study on IMI*.; Benz, A., Corcaci, A., & Wolfgang Doser, J. (2016). Unravelling multilevel administration. Patterns and dynamics of administrative co-ordination in European governance. *Journal of European Public Policy*, 23(7), 999-1018; Cremers, J. (2013). Free provision of services and cross-border labour recruitment. *Policy Studies*, 34(2), 201-220; Voss, E., Faioli, M., Lhernould, J. P., & Iudicone, F. (2016). *Posting of Workers Directive: Current Situation and Challenges*; The administrative cooperation imperative, <http://www.eurodetachment-travail.eu/synthese/monitoring-controlling.html>

² 824; Kullmann, M. (2015). Enforcement of labour law in cross-border situations. A legal study of the EU's influence on the Dutch, German, and Swedish enforcement systems; ; The administrative cooperation imperative, <http://www.eurodetachment-travail.eu/synthese/monitoring-controlling.html>; Cremers, J. (2013). *Posting of workers: enforcement problems and challenges*, *Posting of workers: improving collaboration between social partners and public authorities in Europe*, p.164-171, Conference paper;

challenging due to different interests in regard to posting and some legal, political limitations.

This situation analysis focus on labour inspectorates and other competent authorities cooperate with social economic partners. The literature on new modes information sharing and partnership has focused on monitoring-control³, coordination⁴ and partnerships as specific policy implementation tools at EU level. These studies analyse the socialisation process the national agencies undergo when these instruments are introduced. Researches always discuss the benefits and negative effects of a decentralized network models. Some of them compares them with a more centralized agency lead type model⁵. Others scholars focus on practice on variation in the design of regulatory networks⁶, performance of actors' arrangements and effects on coordination, monitoring processes⁷. However, very little attention has been given so far to another crucial implication of information sharing and exchange in network governance between various actors involved. That is, the effects of informative networks on their members activities. The governing of internal market is very specific field, where researches have emphasised informal instruments (informal partnerships, information sharing) with combination with legally grounded instruments.⁸

The academic research reveals that in some western countries systematic and extensive cooperation (for instance in Netherlands) between the state authorities and the social partners⁹. The Dutch labour inspection (Inspectorate SZW) informs trade

³ Benz, A., Corcaci, A., & Wolfgang Doser, J. (2016). Unravelling multilevel administration. Patterns and dynamics of administrative co-ordination in European governance. *Journal of European Public Policy*, 23(7), 999-1018.

⁴ Hartlapp, M., & Heidbreder, E. G. (2017). Mending the hole in multilevel implementation: Administrative cooperation related to worker mobility. *Governance*; Vifell, Å. C., & Sjögren, E. (2014). The legal mind of the internal market: A governmentality perspective on the judicialization of monitoring practices. *JCMS: Journal of Common Market Studies*, 52(3), 461-478; Mastenbroek, E., & Martinsen, D. S. (2017). Filling the gap in the European administrative space: the role of administrative networks in EU implementation and enforcement. *Journal of European Public Policy*, 1-14; Galetta, D. U., Hofmann, H. C., & Schneider, J. (2014). Information Exchange in the European Administrative Union: An Introduction. *European Public Law*, 2014(1), 65-70.

⁵ Boin, A., Busuioc, M., & Groenleer, M. (2014). Building European Union capacity to manage transboundary crises: Network or lead-agency model?. *Regulation & Governance*, 8(4), 418-436; Maggetti, M. (2014). The rewards of cooperation: The effects of membership in European regulatory networks. *European Journal of Political Research*, 53(3), 480-499.

⁶ Blauberger, M., & Rittberger, B. (2015). Conceptualizing and theorizing EU regulatory networks. *Regulation & Governance*, 9(4), 367-376.

⁷ Egeberg, M., & Trondal, J. (2017). Researching European Union Agencies: What Have We Learnt (and Where Do We Go from Here)?. *JCMS: Journal of Common Market Studies*; Kullmann, M. (2015). Enforcement of labour law in cross-border situations. A legal study of the EU's influence on the Dutch, German, and Swedish enforcement systems. Deventer: Wolters Kluwer.

⁸ Thomann, E., & Sager, F. (2017). Moving beyond legal compliance: innovative approaches to EU multilevel implementation. *Journal of European Public Policy*, 1-16; Wall, G. (2016). Linked National Public Authorities—a Study on IMI; Heidbreder, E. G. (2017). Strategies in multilevel policy implementation: moving beyond the limited focus on compliance. *Journal of European Public Policy*, 1-18.

⁹ van Hoek, A., & Houwerzijl, M. (2011). Comparative study on the legal aspects of the posting of workers in the framework of the provision of services in the European Union. Study on behalf of the European Commission, Contract Number VT/2009/0541) <http://ec.europa.eu/social/BlobServlet>;

unions about cases of abuse in regard to posting¹⁰. This enables social partners for better monitoring collective agreements application in perspective of possible violations. Studies reveals that, for better cooperation established intervention teams have been established to cooperate more closely (mainly in building sectors). The Dutch labour inspection concluded agreements with labour unions for periodic meetings aimed for information exchange. In addition, similar agreements have been concluded with other state agencies to exchange information. Consultations have been held with competent in policy issues ministries¹¹.

In Germany, there is cooperation state institutions, regional institutions and trade unions. A so-called “Typologiepapier” has been settled for situations descriptions in which there is a regular obligation for the mutual provision of information (in case of letterbox, bogus self-employment, undeclared work,...). The joint market control actions (“Aktionsbündnisse”) is another mode of cooperation. Still, recent research studies disclose that similar as described cooperation modes are not systematic. These arrangements are rarely fulfilled as some studies reveals¹². In Sweden, There is no systematic co-operation between authorities and social partners, but the trade unions in particular regularly inform the authorities when they suspect undeclared work or other types of abuse of the rules on posting.

This article traces the course of a transnational action in the German meat industry involving an alliance of transnational posted workers, a local civil society organization and the trade union NGG (Gewerkschaft Nahrung-Genuss-Gaststätten). As labour’s channels of influence have broken down and posting of low-wage workers has intensified, trade unionists have responded by building coalitions with societal actors. The case illustrates a complementary approach to studying how resistance unfolds in transnational workplaces under conditions in which traditional avenues for protest are blocked or marginalized.

Some researchers point that, the obligation to inform in the case of suspected undeclared work have moved to more intensive cooperation between labour inspectorates and trade unions in Western countries.

In academic literature, the case analysis are presented which reveals importance of new communications modes and new networks relevant to posting issues¹³. Researcher Ines Wagner explains that a transnational action in the German meat industry involving an alliance of transnational posted workers, a local civil society organization and the trade union NGG (Gewerkschaft Nahrung-Genuss-Gaststätten). She explains that: „As labour’s channels of influence have broken down and posting of low-wage workers has intensified, trade unionists have responded by building

¹⁰ Berntsen, L. E. (2015). Agency of labour in a flexible pan-European labour market: a qualitative study of migrant practices and trade union strategies in the Netherlands (Dissertation). Jyväskylä studies in education, psychology and social research; 0075-4625; 526.

¹¹ Kullmann, M. (2015). Enforcement of labour law in cross-border situations. A legal study of the EU's influence on the Dutch, German, and Swedish enforcement systems. Deventer: Wolters Kluwer.

¹² van Hoek, A., & Houwerzijl, M. (2011). Comparative study on the legal aspects of the posting of workers in the framework of the provision of services in the European Union. Study on behalf of the European Commission, Contract Number VT/2009/0541) <http://ec.europa.eu/social/BlobServlet>

¹³ Berntsen, L. (2015). Stepping up to strike: a union mobilization case study of Polish migrant workers in the Netherlands. *Transfer: European Review of Labour and Research*, 21(4), 399-412.

coalitions with societal actors. The case illustrates a complementary approach to studying how resistance unfolds in transnational workplaces under conditions in which traditional avenues for protest are blocked or marginalized”¹⁴.

Tenth of studies give evidence that traditional industrial relations models do not correspond needs of mobile workers. There various reasons behind this: starting from employment segmentation (contractually fragmented workforces) and ending with unorganised workforce. Interestingly, the study of Markku Sipola exposes that there Estonian construction workers have been employed in Finland in four ‘patterns of firm ownership’ that range from the most unfavourable to most favourable position: workers posted by Estonian firms; workers employed by firms registered in Finland but operated by Estonians; self-employed/small business owners and workers employed by Finnish firms. The author concludes that: “The structuring of the regime according to the pattern of firm ownership can be interpreted as a manifestation of employers’ intentional strategies to adapt to or avoid national regulations and to some extent as also reflecting workers’ individual and collective agency”¹⁵.

All these studies proves that there is need to take multidimensional and flexible communication approach by keeping in mind different interests of target groups and condition they deal with.

The trade unions strategies regarding posted of workers and other migrants are distinguished in to categories: 1) mobilising¹⁶; 2) along the governmental dimension¹⁷. New research suggest that trade unions are undertaking new innovative requiring strategies searching for new linkages (on national, international level) for organizing these new labour market entrants (they are named as “atypical”)¹⁸.

¹⁴ Wagner, I. (2015). EU posted work and transnational action in the German meat industry. *Transfer: European Review of Labour and Research*, 21(2), 201-213.

¹⁵ Sipola, M., & Kall, K. (2016). Locked in inferiority? The positions of Estonian construction workers in the Finnish migrant labour regime. In *Labour mobility in the enlarged single European market* (pp. 215-240). Emerald Group Publishing Limited.

¹⁶ The literature describes these initiatives in terms of revitalization/renewal. It focuses on unions’ proactive efforts to regain their lost social impact. The migrants or posted workers is understood as underrepresented group. In this perspective, trade unions operate as social movements rather than institutionalised agents (Ruth, M., Bloom, J., & Narro, V. (Eds.). (2013). *Working for Justice: The LA Model of Organizing and Advocacy*. Cornell University Press; .

¹⁷ These strategies include administrative efforts of government where unions actively promote legislation regarding the regulation/policies of the industrial relations framework (Behrens, M., Hamann, K. and Hurd, R. (2006) *Conceptualizing labour union revitalization*, Frege, C., & Kelly, J. E. (Eds.). *Varieties of unionism: Strategies for union revitalization in a globalizing economy*. Oxford University Press on Demand).

¹⁸ Gumbrell-McCormick, R. (2011). European trade unions and ‘atypical’workers. *Industrial Relations Journal*, 42(3), 293-310; Fitzgerald, I., & Hardy, J. (2010). ‘Thinking outside the box’? Trade union organizing strategies and Polish migrant workers in the United Kingdom. *British Journal of Industrial Relations*, 48(1), 131-150; Gumbrell-McCormick, R., & Hyman, R. (2013). *Trade unions in Western Europe: hard times, hard choices*. Oxford University Press..

To sum up, there are types of cooperation exchange between state institutions, agencies and trade unions and NGO:

- 1) Regular, systemic information exchange based on agreements and cooperation (in some there are there is a regular obligation for the mutual provision of information; some have been expanded to joint inspection activities, consultations etc.);
- 2) Not regular, focused on permanent problems or limited to some economic sectors, projects etc. (Information exchange could be one-way).
- 3) “Projectisation” of trade union, NGO initiatives for information exchange (consultation and other cooperation practices) with state authorities,. (resource depended, time limited, etc.).

2.3. COMMUNICATION FOR EFFECTIVE INFORMATION EXCHANGE

The communication it is about building better understanding, forcing positive change and minimising negative effects. It is often used by NGO, labour unions for the reason it is audience focused, mission driven, and action oriented¹⁹. It is not limited to message sending, but can cover advocacy, educative projects, services to members as well as partnership initiatives. The communication experts highlight importance of focusing for target audiences for releasing missions and sending effective messages.

Communications plans could be for partnership initiatives that drive joint action. In this perspective, the plan can be reminder to partners or networked organisations and the day-to day challenge itself²⁰. NGO, state institutions, trade unions could strategically focus on public policy problems, implementation activities, cooperation areas on agreed joint working dimensions. These networked organisations can achieve can achieve positive changes in collaborative planning on national and even EU level²¹. The outcome of such processes could be effective collective actions.

Communication plan in regard of posting issues can realise the main objective. It necessary to stress that such plan is based on partnership, therefore in not determined by single organisation features. In the essence, this plan is based on network organisations and focus on joint actions.

This written plan for networked could include:

- 1) overview of the plan;
- 2) communication objectives;
- 3) communication activities/strategies and key targeted messages.

¹⁹ Patterson, S. J., & Radtke, J. M. (2009). Strategic communications for nonprofit organization: Seven steps to creating a successful plan. John Wiley & Sons.

²⁰ Hudson, A. (2001). NGOs’ transnational advocacy networks: from ‘legitimacy’ to ‘political responsibility’?. *Global networks*, 1(4), 331-352; Mandarano, L. A. (2009). Social network analysis of social capital in collaborative planning. *Society and natural resources*, 22(3), 245-260.

²¹ Kilger, C., Reuter, B., & Stadler, H. (2015). Collaborative planning. In *Supply chain management and advanced planning* (pp. 257-277). Springer Berlin Heidelberg.

It also can cover some implementation plans. However, that it would be difficult to implement due to various limitations starting with fragmented network and ending with inadequate possible resources.

Effective communication starts with situation analysis of environment in which networking is. It is important for systemising or finding new information about policy problems, policy and economic players/actors, the policy process, etc. This analysis can cover examining factors, forces that influences network and his target group. In perspective of posting issues, it is important to analyse demographic, economic factors as well as politico – administrative processes. The gaps in effective communication identification method is one of the analytical tools use in communication audit²². This analysis aims at identifying gaps on two dimensions: posted workers policy processes and on the partnership network.

Communication plan could be successful if its audiences targeted²³. Thus, it is important in planning processes to focus on special groups like politicians/political institutions, governments, aware or unaware public, target groups (posted workers, employers, etc.). By focusing strategically on these groups, the network organisations is much more likely to use its resources effectively. The best practice examples demonstrates that it is better to focus on narrow problem oriented sectors relevant to posted workers problems. For instance, the concentration on building or transport sector in perspective of “send” or “incoming” workers could be example.

2.4. COOPERATION BETWEEN STAKEHOLDERS AND THE NEED FOR BETTER COMMUNICATION

Cooperation patterns in Baltic states and Poland. In Baltic states and Poland there have been some forms or at least of informal cooperation between relevant national stakeholders in posting of workers issues. It seems that systemic cooperation has been on posting workers issues in Poland and Lithuania. In Latvia, Estonia, this cooperation started with the EC financed projects. It necessary to note that cooperation has been is nowhere specifically aimed at posted workers alone, but is related to other workers groups. Another aspect, there is still a gap between cooperation on projects activities and actual practice, especially when it comes to the collaboration of inspectorates with social partners.

The cooperation patterns have formed by influence of specific closed type post-soviet administrative systems, non-participatory political culture, low social capital and other historical and social factors.

In Baltic states and Poland, social partners’ involvement in policy making is more diverse. The social dialogue is less institutionalised compared to some Western countries. There is very intensive and extensive social partnership regime and practice. Although, Baltic state and Poland have social dialogue structures (tripartite comities, councils) are in place on national level²⁴. Researchers Epp Kallaste,

²² Palttala, P., Boano, C., Lund, R., & Vos, M. (2012). Communication gaps in disaster management: Perceptions by experts from governmental and non-governmental organizations. *Journal of Contingencies and Crisis Management*, 20(1), 2-12.

²³ Patterson, S. J., & Radtke, J. M. (2009). *Strategic communications for nonprofit organization: Seven steps to creating a successful plan*. John Wiley & Sons.

²⁴ Lulle, A. (2013). Estonia, Latvia, Lithuania-labour relations and social dialogue. *Regional Project on Labour Relations and Social Dialogue*.

Charles Woolfson revealed that social dialogue deteriorated, remaining at a low level even in times of last economic crises (2009-2012)²⁵ Social dialogue councils have met irregularly and generally lacked substantive influence over policymaking²⁶.

Employees’ representation by trade unions. The trade unions in Baltic countries have not had enough influence to become important policy actors in regard to posting issue. They also do not have enough trust from part of society as well as capacity to act as in regard to workers interests²⁷. In Estonia, trade unions operate in a particularly unfriendly institutional environment according some empirical research²⁸. Historical legitimacy is one of the negative factors that determines low associational power.

Union membership in Baltic states and Poland was in 2012²⁹ (Table 1). Trade union density is very low in Estonia.

Table 1. Trade union density in Baltic state and Poland, 2012

	Estonia	Latvia	Lithuania	Poland
ETUI**,2010	10	13	10	15
ICTWSS*, 2012	6,5	13,1	8,98	12,7

Data: *J. Visser, ICTWSS Data base. version 5.1. Amsterdam: Amsterdam Institute for Advanced Labour Studies (AIAS), University of Amsterdam. September 2016;

**<https://www.worker-participation.eu/National-Industrial-Relations/Compare-Countries>

In general, the liberal Baltic states have low levels of labour mobilisation and bargaining institutionalisation. In this regard, the situation have slowly started to change with innovative practices from trade unions (e.g. through mobilisation, initiatives, focus on legislative instead of negotiated), transformation of industrial relation and new labour law regimes (Lithuania case).

²⁵ Kallaste, E., & Woolfson, C. (2013). Negotiated responses to the crisis in the Baltic countries. *Transfer: European Review of Labour and Research*, 19(2), 253-266.

²⁶ Auers, D. (2015). *Comparative politics and government of the Baltic States: Estonia, Latvia and Lithuania in the 21st century*. Springer.

²⁷ Kahancová, M. (2015). Central and Eastern European trade unions after the EU enlargement: successes and failures for capacity building. *Transfer: European Review of Labour and Research*, 21(3), 343-357; Korkut, U., de Ruyter, A., Maganaris, M., & Bailey, D. (2017). What next for unions in Central and Eastern Europe? Invisibility, departure and the transformation of industrial relations. *European Journal of Industrial Relations*, 23(1), 65-80; Sippola, M. (2009) *A Low Road to Investment and Labour Management? The Labour Process at Nordic Subsidiaries in the Baltic States*. PhD thesis, University of Jyväskylä, Finland; Mrozowicki, A., Roosalu, T., & Senčar, T. B. (2013). Precarious work in the retail sector in Estonia, Poland and Slovenia: trade union responses in a time of economic crisis. *Transfer: European Review of Labour and Research*, 19(2), 267-278.

²⁸ Bernaciak, Magdalena, and Marta Kahancová. Drivers of union innovation in the CEE context; Mrozowicki, A., Roosalu, T., & Senčar, T. B. (2013). Precarious work in the retail sector in Estonia, Poland and Slovenia: trade union responses in a time of economic crisis. *Transfer: European Review of Labour and Research*, 19(2), 267-278.

²⁹ The latest data international surveys.

Finish scholar Rolle Alho analysed trade union strategies in relation to labor migration in Estonia and Finland. He found that: However, the Estonian trade union movement does not hold a liberal stance toward immigration, [...] The Estonian trade union movement has an outspokenly restrictive stance toward immigration. Neither do the Estonian unions have any strategies aimed at mobilizing immigrants”³⁰. Such position is explained by historical legacies dealing with labour mobility, liberal migration strategies of labour unions and weak trade union movement in Estonia. The Estonian trade union movement appears to be an outsider as regards migration policy³¹.

It must be noted that Polish labour organisations have more power resources in comparison to similar in Baltic states. They also have much more trust comparing to labour unions in Baltic states³². Still as Magdalena Bernaciak concludes: power resources of Polish labour organisations have been steadily diminishing”.³³ Other researches, demonstrate some specific trade union transitions with example of example of most known and powerful organisation Solidarność’s. Solidarność has lost more than 1,5 million of its members since 1991 (around 61 percent). Despite this significant decline, Solidarność is still the largest union “confederation” in Poland and within all the CEE countries³⁴. There is necessary to point, that Roughly speaking, there are around 25 thousand trade unions in Poland. These facts demonstrate that polish trade unions have similar associational as trade unions in Baltic states. In seems that have more power as social partners on social dialogue perspective.

Employer’s organizations density. Employers collective interest are represented by business umbrella organisations (Table 2). In Baltic states, the employers’ have powerful organised interests that influence policy through interaction with parliaments, government, ministries and political parties. This deteriorates the meaning and function of the tripartite councils³⁵. Markku Sippola analysis of employers’ associations policy documents proves that these organisations are

³⁰ Alho, R. (2013). Trade union responses to transnational labour mobility in the Finnish-Estonian context. *Nordic journal of working life studies*, 3(3), 133.

³¹ Alho, R. (2013). Trade union responses to transnational labour mobility in the Finnish-Estonian context. *Nordic journal of working life studies*, 3(3), 133.

³² Mrozowicki, A. (2014). Varieties of trade union organizing in Central and Eastern Europe: A comparison of the retail and automotive sectors. *European Journal of Industrial Relations*, 20(4), 297-315; Bernaciak, M. (2017). Coming full circle? Contestation, social dialogue and trade union politics in Poland. *Rough waters European trade unions in a time of crises*, Rough waters European trade unions in a time of crises. ED. S. Lehdorff, H. Dribbusch, T. Schulten. European Trade Union Institute.

³³ Bernaciak, M. (2017). Coming full circle? Contestation, social dialogue and trade union politics in Poland. *Rough waters European trade unions in a time of crises*, Rough waters European trade unions in a time of crises. ED. S. Lehdorff, H. Dribbusch, T. Schulten. European Trade Union Institute

³⁴ Gardawski, J., Mrozowicki, A., & Czarzasty, J. (2012). Trade unions in Poland. <http://www.etui.org/content/download/6395/60671/file/12+etui-poland+r123+web+version.pdf>; Trappmann, V. (2012). Trade unions in Poland. Current Situation, Organisation and Challenges. Warsaw: Friedrich Ebert Stiftung Study, <http://library.fes.de/pdf-files/id-moe/08949.pdf>

³⁵ Auers, D. (2015). *Comparative politics and government of the Baltic States: Estonia, Latvia and Lithuania in the 21st century*. Springer.

focused on social partnerships with state agencies rather than trade unions, social partnerships with state agencies rather than trade unions³⁶.

Table 2. Employers' Association

Estonia	Latvia	Lithuania	Poland
<p>Biggest trade associations of Estonia are represented in the <i>Estonian Employers' Confederation</i>. In 2013, the Confederation represented over 1,500 Estonian enterprises which in total employ around 145,000 workers (10 % of Estonia's workforce). <i>Estonian Chamber of Commerce and Industry (Koda)</i> is active in representing employers' interests.</p>	<p><i>Employers confederation of Latvia (LDDK)</i> is the biggest organization representing the interests of employers. The members of LDDK employ at large 35% of employees. The association represents employees' interest on National Tripartite Co-operation Council. This organisation is understood as main social partner from employers side. <i>Also Latvia's Chamber of Commerce and Industry (LTRK)</i> is a vocal player in support of employers' interests.</p>	<p><i>Lithuanian Confederation of Industrialists (LPK)</i> - is a major business organization. It represents over 2700 medium and large sized enterprises from various sectors. LPK unite over 35% of the Lithuanian work force. <i>Lithuanian Business Employers' Confederation (Lietuvos verslo darbdavių konfederacija, LVDK)</i> is an independent non-profit organization that operates in whole Lithuania, uniting SME subjects. <i>Lituanian Investors Forum</i> is active in representing employers' with foreign capital investors interests.</p>	<p><i>Confederation Lewiatan</i> is the most influential Polish business association representing interests of Polish businesses in Poland and the European Union. Lewiatan gathers around 3,900 companies. Confederation Lewiatan is a member of the Social Dialog Council and has a direct influence on government and legislative actions. <i>Business Center Club (BBC)</i> - a prestigious business club and the largest individual entrepreneur organization in Poland. BCC gathers more than 2,000 members (individual entrepreneurs and companies) representing various industries. <i>Polish Business Roundtable (Polska Rada Biznesu, PRB)</i> Polska Rada Biznesu gathers large businesses and employers in Poland and represents them in dealings with government. The association is apolitical, and its members are CEOs of large Polish private enterprises or foreign firms operating in Poland. <i>Employers of Poland (Pracodawcy Rzeczypospolitej Polskiej, Employers of Poland)</i> is the oldest and the largest employers' organization in Poland. he Confederation gathers 12,000 companies that employ. An employer of Poland is a member of the Social Dialog Council and has influence on government legal actions.</p>

Data: Lulle, A. (2013). Estonia, Latvia, Lithuania-labour relations and social dialogue. Regional Project on Labour Relations and Social Dialogue.

In Baltic states and Poland informal networks of friends and family contacts are still noticeable in business interest representation and lobbying. Sometimes decision making tends to be not transparent enough. It happens that in some countries informal networks often turn into clientelism and even political corruption. It is also important to notice, that business association focus depends on their members interest to social, economic or public policy problems. It also seems that business

³⁶ Sippola, M. Ideological underpinnings of the development of social dialogue and industrial relations in the Baltic States. <http://www.lpsk.lt/lpsk-web/wp-content/uploads/2017/02/Baltic-IR-development-Sippola-2017-02-23.pdf>

providing cross-border services are not so much interested in active participation via associative channels. The transport sector seems exception.

3. INFORMATION EXCHANGE GAPS DEALING WITH POSTED WORKERS ISSUES

3.1. GAPS IN INTERACTION BETWEEN SOCIAL PARTNERS AND GOVERNMENT AGENCIES AND INSTITUTIONS

As it was highlighted previously, new demands for better coordination, information exchange and cooperation to realise enforcement responsibilities led to the development of new forms cooperation (new initiatives between national labour inspectorates, Social affairs ministries and labour for new posting issues) or enablement of old forms of cooperation (i.e. consultations).

Cooperation and information exchange between ministries and agencies on national level. In Baltic states and Poland, there have been cooperation for solving posting policy implementation. The labour inspectorates are responsible for information exchange in regard of posting. Labour inspectorates leading agencies in all. The information is exchanged via ICT systems or exchanging it via traditional forms³⁷. The information have been exchanged for realisation functions of responsible institutions.

There have been three thematic dimensions for involvement and information exchange in Baltic states and Poland: 1) labour – Labour inspectorates; 2) social security – Ministries of Social affairs, Social insurance boards³⁸; 3) finance – tax authorities. In Baltic states and Poland, the focus have been on labour dimension when dealing with posted workers issues. The administrative arrangements and information exchange have been based on this pillar.

Qualitative interview reveals that there have been only marginal information sharing gaps. For instance, integration of government ICT, development of usage of IMI systems by joining new administrative users³⁹.

The Social security ministries⁴⁰ are directly responsible for policy formation. The policy is complex in regards some issues, therefore other institutions have had some active roles⁴¹. As the reform of EU posting workers policy reveals (2015-2016), there have been some gaps in terms on stakeholders involvement and information sharing.⁴² In some Baltic countries, ministries and governments have use EU funded projects activities (conferences, seminars, informative campaigns) for public awareness raising as well as for stakeholders involvement into discussions⁴³.

³⁷ Interview with EE1, LT1, LV1, PL1.

³⁸ In Poland, the Social Insurance Institution (Zakład Ubezpieczeń Społecznych, ZUS) is on the application of social security schemes to employed persons,

³⁹ Interview with EE1, LV1.

⁴⁰ In Poland, Department of Migration, Ministry of Labour and Social Policy (Ministerstwo Pracy i Polityki Społecznej, MPiPS)

⁴¹ Interview with LTf.

⁴² Interview with LTf, LT4, LT3.

⁴³ Interview with LT3.

In Estonia and Lithuania, information sharing and networking was focused to transport sector⁴⁴. In Latvia, the participation of stakeholders has been linked to the building sector.

Information exchange between state authorities and stakeholders on national level.

The posting of workers area is very complex because of the EU public policy in terms of policy problems, implementation obstacles and conflicting actors' and stakeholders' interest. The actors had cooperative relations in information sharing, consultations. The interactions has been determined by contract agreements, description formal responsibilities and trust in each other. Consequently, it possible to describe the network based on partnership core value. Still, The interest in the issue relevant to posting has been radically different except some common points. Another aspect of this is mistrust between employers' organisation and trade unions in the Baltic states. This mistrust culture often has an impact (mostly negative) on communication as a context factor. Therefore, the round table debates have been very tense and even sometimes hostile with controversial reactions or proposals. This environment has not facilitated intensive cooperation on EC financed projects, but, at the same time, it has not played a critical role in the implementation of some activities.

In Baltic states, soviet time legacies, image and stereotypes have been making negative impact. They are minimising their role as the public policy formation and implementation actors.⁴⁵. This proves the in-depth interviews. The trade union experts and civil servant pointed, that the low social trust, negative image, low involvement in consultations minimises their possible role in posting policy process⁴⁶.

Information exchange and partnership in Poland. Qualitative data reveals that there is intensive administrative cooperation between national authorities and social partners have started with EC financed projects. These initiatives to collaborate on issues that were closely linked to information exchange. In Poland, these projects have been focused to mutual understanding, information exchange as well to problem solving. The respondent shared his experience followingly:

The National Labour inspection had taken part in the international projects („Promocja współpracy transgranicznej pomiędzy partnerami oraz popularyzacja najlepszych praktyk w celu skuteczniejszego egzekwowania ustawodawstwa europejskiego w zakresie delegowania pracowników”) in 2016-2017. The eight seminars have been organised in Poland in which civil servants from Labour inspectorate, academic scholars, employers representatives and members from trade union „Solidarność”. [...] Participation in project activities have benefited for better understanding of posting problems and sharing experiences. The problems varied depending the regional seminars. The organisers had tried to resolve so problems (i.e. availability of information about employment conditions of sending posted workers)⁴⁷

⁴⁴ Interview with EE2; EE3; LV3.

⁴⁵ Sippola, M. Ideological underpinnings of the development of social dialogue and industrial relations in the Baltic States. <http://www.lpsk.lt/lpsk-web/wp-content/uploads/2017/02/Baltic-IR-development-Sippola-2017-02-23.pdf>

⁴⁶ Interview with EE1, EE2, EE3, LT1.

⁴⁷ Interview with PL1.

This interview explains that information exchange is essential for problem solving. In this case, the information relevant employment conditions to which posted workers have been sent. The interest of information has labour union representative as well as employers. On another hand, the interview explains that the need of information exchange may vary depending of region. The Poland as country size and regional differences in posting issues is clearly distinguishing feature in comparison to small Baltic states. Another important limitation comes from the so-called “projectisation” of information sharing and awareness raising initiatives. Technically they are important form narrow policy implementation perspective. This limitations has been reflected by another respondent:

Stakeholders’ initiatives might certainly be enhanced with endorsement by public authorities. The current project, in which NSZZ “Solidarność” cooperates with the National Labour Inspectorate (PIP) may serve as a signpost for actual collaboration as well as a benchmark for development of collaboration in the future. Tripartite social dialogue bodies (Social Dialogue Council, regional social dialogue councils, labour market councils) could be useful in advancing the issues related to posting, and contribute to increase their visibility in both national and cross-national level of debate⁴⁸.

The respondent pointed that policy problems which have been analysed in seminars for exchange of information could eventually become issues on institutionalised social dialogue agenda. On the other hand, the trade union expert reflected different interest of trade unions and employers organisations in regard to posting issues:

The main problem, as far as stakeholder management is concerned, is a deep split between trade unions and employer organisations in their attitude towards the issue of posting of workers: while trade unions support the EC hard-line approach aiming at creating a coherent environment for posting of workers, at least in terms of fair pay (unions’ endorsement of the ETUC position and NSZZ „Solidarność”’s supportive stance, despite some reservations), employers are firmly against it (see: Confederation Lewiatan’s opinion, Employers’ of Poland and BCC’s joint statement⁴⁹).

The interview indicates that opposite positions could be mitigated by consultations and information exchanges. On the other, these contradictory positions have been formed on recent EU posted workers policy reform issues.

As the current project suggests, cooperation between the national labour inspectorate and a nation-wide representative trade union, NSZZ “Solidarność”, helps establishing and enhancing links, collectively defining the area of common interest (observance of law, fair treatment of individuals on the supply side – the relatively weaker actor vis-a-vis employers/service recipients – of the labour market, pursuit of values fundamental for the European Social Model), collectively producing and disseminating knowledge on posting of workers, problems encountered in course of posting, and possible ways of dealing with them. In the long run, such cooperation contributes to accumulation of social capital (trust) and the network of social bonds becoming denser. Such activities undertaken throughout the project as a cycle of training sessions (involving the high-level officer of the National Labour Inspectorate representing the Legality of Employment Department and directly responsible for the issues related to IMI) have attracted so far a wide range of stakeholders, which on the one hand indicates the urgent

⁴⁸ Interview with PL2.

⁴⁹ Interview with PL2.

need for knowledge and expertise in the area under scrutiny (especially, considering the dynamic changes the EU regulatory framework is undergoing currently), and, on the other hand, create a platform for bi- and multilateral contacts of those involved. Crucial it seems, is institutionalisation of such contacts by transforming them into a regular form of communication, information exchange and consultation, even after the project is completed⁵⁰.

In this interview, the working platforms for cooperation and information exchanged have been mentioned. It is possible to find that activities have had started just recently. The respondent also mentioned about the need of initialisations for consultations and information exchange.

Poland NGO and trade unions have their projects, day-to-day communication activities with union members and other workers. This type activity aimed at information sharing, consultations and giving some legal or psychological counselling. Posted workers gets in this form help for solving their problems, in addition, NGO focus directly on assisting people. Therefore, there is the need for possible cooperation according to respondent:

Definitely there is room for growing networks (with various degrees of formalisation), emphasis kept on direct communication between trade unions and posted workers with involvement of NGOs whose focus in on assistance and aid to posted workers. The notable example of such an organisation (with strong curriculum) in Poland is the Association of Migrant Workers (Polskie Stowarzyszenie Pracowników Migrujących, PSPM). PSPM aims at assisting people leaving their country in search of work, in particular by offering persons in such position free-of-charge advice in the following areas: employment law in force abroad laws, regulations and collective agreements in specific sectors, social issues, social security and holidays, accidents at work ,dealing with cases of unpaid wages, contacting aid institutions, acquiring legal aid. It must be stressed out that PSPM serves not only the needs of migrant workforce per se (that is, people leaving Poland for good on work-searching grounds) but also to seasonal and posted workers. The association has managed to build links with trade unions organisations in the countries belonging to a group of the most popular destinations of migrant workers. Another important fact regarding PSPM is their orientation towards not only outward movement of workers (from Poland) but also inward movement (to Poland), which involves regional cooperation with trade unions and NGOs from Lithuania, Ukraine and Germany⁵¹.

This reflection on networking reveals that some NGO in Poland have targeted their activities to, co called, send to other and as well as incoming posted workers. Indeed, this NGO activities have not been solely limited to posted workers, it also involves and targets others migrant workers groups. The responded had later remembered another new organisation targeting posted workers:

The recent initiative of the Inter-company Trade Union of Ukrainian Workers in Poland (Międz Zakładowy Związek Zawodowy Pracowników Ukraińskich w Polsce) registration in June 2016 indicates the possible path for rise and development of networks, involved not only in information sharing (as thee basic form of contacts) but also more advanced forms of cooperation (e.g. arranging for aid to be provided to persons in need in their current location). Conversely, similar initiatives in the other Member States targeting

⁵⁰ Interview with PL2.

⁵¹ Interview with PL2.

foreign workers should be monitored by public authorities and social partners, and subsequently used to build up networks of cooperation with their counterparts in other EU countries (from Polish perspective such initiatives that triggered some forms of cooperation in the past included hiring of Polish-speaking union officers/organisers by trade unions in the UK and Ireland).⁵²

In this discourse, the effectiveness of cooperation is highlighted by focusing on interactions between specialised NGO and trade unions. It is important to notice, that eventually it could be very focused and limiting in terms of other actors involvement network.

Multi-level cooperation offers the widest scope of opportunities to increase efficiency of enforcement of the European legislation regarding posted workers and posting issues. On the one hand, cooperation between national-level institutions (labour inspectorates, central-level social partner organisations) allows to coordinate meta-regulation set by law and collective bargaining but also – which appears to be acutely urgent need, especially considering a high share of drivers in cross-border freight transport. On the other hand, it is necessary to establish regular contacts at the ground level, involving local trade unions officers, basic administrative units to deal with the specific problems as they appear and offer at-hand aid⁵³.

Information exchange in Estonia.

The information exchange between stakeholders on policy process level requires initialised platforms and concrete issues which can be brought to agenda. In Estonia, social dialogue platforms have been used in transport sector as qualitative data proves:

When we stated with the posting issue, it was more or less in the same state with employee financial participation we talking today in conference. [...] At the beginning we have been alone just communicating between partners in other Baltic states. Western European countries have very different view on the posting. For example, the Nordic countries have very specific policies on the posting workers topics. And we had not good solutions also. But we have just good network. We cooperate with ITF, YTF with Baltic network. We have much better mutual understanding with Nordic countries. We have had some actions on EU level. We have influenced our EU Parliament members on posting issues. There is new so called road package on the table. This means that EU level legislation will be changed. There also will be some posting issues inside that. There are mane unsolved questions and issues that are ongoing. The progress is very good in comparison maybe with other fields. Thus, posting projects are more successful than others⁵⁴.

Another problems that is mentioned by Estonians respondents is the lack of deeper and intensive cooperation on information exchange on posting issues. As interviews and project evaluation report⁵⁵ suggest the cooperation started between labour union

⁵² Interview with PL2.

⁵³ Interview with PL2.

⁵⁴ Interview with EE3.

⁵⁵Posting of workers: enhancing administrative cooperation and access to information in Baltic region (VS/2014/011), Project monitoring and evaluation report. Vinius, 2016; ETTA Report on Consultations, Project VS/2016/0024, 13/01.2016.

(Estonian Transport and Road Workers' Trade Union) and labour inspectorate started with the projects. The information exchange, consultations are permanent based on project activities. For instance, National Labour Inspectorates and the Ministry of Social Affairs have been involved by ETTA in to the discussion in regard PWD implementation in 2016.⁵⁶ The practice of information exchange and consultation have been ingeniously observed by respondent from Estonian Labour inspectorate: .

In Estonia, trade unions are no so big and important like Finland, Denmark or Sweden. In Estonia, they play less important role and have really liberal stance and easy to make. [...] Of course, we cooperate with them when we have questions, but do not have active communication or consultations on the topic of posting⁵⁷

The interview indicates that gaps in information exchange could be related to mistrusts between social partners and labour inspectorate. Another reason behind is determined by project as organisational mode for information exchange, consultations and further cooperation. In Estonia, the project aimed at posted workers issues have not had fully solved information exchange problems. Qualitative data analysis reveals that there have been some cooperation in form consultations, information exchange, although it is not sustainable.

According to interviews it is possible to find gaps in information exchange between social partners. As it was mentioned, there have been intensive discussion on transport sector social dialogue institutions. These dialogue has been focused on policy problems and policy development. The gaps have been in day-to-day communication in regard the truck drivers as posted workers matters like conditions of employment, and bogus subcontracting or unlawful agency work, etc. The interview explains problem in more details by clarifying reasons and driving forces:

In transport sector we have two employers' associations. One is national and another international. We have very good cooperation with national one and we very much discussed with posting topic. I is quite well covered. But problem is that posted workers employed by some companies issues are not covered by national associations, because they are not members of it. In Estonia, there is specific market. In Estonia, there are small companies, majority of them, which have 2-3 trucks and several drivers. And they are coming and going, ... it is very easy to create it and it is very easy to close it. Thus, we actually do not have contacts with these companies. [...] I think that there is logic to that. We talked about it internationally [...] ⁵⁸

As interview data reveals, limiting factor for information exchange between trade unions and employers of posted workers could not be exception in Estonian industrial. The companies have no interest for social dialogue on sectoral level due to temporariness of posting and specific business interests.

Estonian experts notices that information exchange depend on trade unions organisational capacities. I was argued that trade union working members can't cope with

⁵⁶ Interview with EE3.

⁵⁷ Interview with EE1.

⁵⁸ Interview with EE2.

all problems. The experts explained, that posting is “secondary issue on their to do lists”⁵⁹.

Information exchange gaps in Lithuania and Latvia

The gaps in information exchange were discussed in Vilnius focus group. Experts group members from NGO, trade union and business association pointed that information exchange in terms of accessibility and effectiveness depends: 1) historical legacies and public attitudes; 2) interests and capacities and organisational cultures of social partners; 3) practical the needs for information exchange; 4) features of industrial relations of specific economy sectors⁶⁰.

It is worth mentioning that the number of stakeholders have taken part in the networks on the national level. The significant number of representatives of NGO, ministries, labour inspectorate have participated in the dialogue. This participation has not been limited to formal presence in conferences or round table discussions, but have been enhanced by making informal contacts and participating in discussions and sharing information⁶¹. Qualitative research specifies that that EC funded projects (similarly to Estonian and Polish case). Later the information exchange has been institutionalise in national social dialog institutions and special platforms. Indeed, the EU posting policy reform process has been important incentive for meetings and discussions

(1 responded) *The EC finances projects was super this. Firstly, its important direct contact and relations with Latvians and Estonians and in this project Polish colleagues. Secondly, It was important platform for importation exchange as well as for sharing good practice. Third thing, it was important contact with Linava. The meetings between our trade union (Lithuanian road haulage drivers' trade union) and “Linava” had become more intensive since starting of these projects. It also tripartite social dialogue has been restarted for transport sector issues and the posted workers issues have been on agenda⁶². We also cooperate in special transport sector forum for Lithuania. Indeed, EU PWD Enforcement directive have boosted some discussions. The officials of “Linava” have raised the questions how to write common memorandums, declarations and the cooperation started. (2 responded) I want to add. This cooperation is based on mutual trusts and understanding of problems. This understanding was very different three or four years ago [...] (3 responded) But there are the representation of big companies problems according to talks with “Linava” officials. The biggest companies like “Girteka” or others are participating in associations only formally. Yes they are paying member fees (laughs), but this is not secret. The same is with Lithuanian builders association. We can find in this associations not builders, but developers. The developers do not have any relations to posting. Such companies like “Staticus” or others are posting workers to Norway or other countries and they are not members of Lithuanian builders association. What I can suggest. We have to focus social dialogue. For example,*

⁵⁹ Interview with EE2, EE1.

⁶⁰ Interview with LTf.

⁶¹ Posting of workers: enhancing administrative cooperation and access to information in Baltic region (VS/2014/011), Project monitoring and evaluation report. Vinius, 2016.

⁶² The Lithuanian National Road Carriers' Association LINAVA. At present the Association enjoys the membership of approximately 1000 road transport operators with a fleet of 22000 licensed goods vehicles and 3000 coaches. There are approximately 38000 licenced goods vehicle and 5500 road transport operators in Lithuania.

*labour unions and biggest employers of posted workers could be involved. It would be most effective information exchange and consultations. Sometimes it is possible to overcome “barrier” of associations [...] It could be initiated by trade unions, Labour inspection or we can continue the projects [...] I talked recently with active CEO of companies “Kaminera grupē”, “Deimanta”. They do not hide violations that are making and some of it deliberately, but just for business interests, for saving their money. But they have good will for discussions, for dialogue. They are not “bad minded”. [...]*⁶³

The respondents gave evidence of this relatively developed cooperation for information exchange. The participating actors exchange mainly information on EU posted worker policy issues focused on national interests representation on EU institutions as well on social dialogue platforms. In trade unions understanding, there has been made only for steps in social dialogue on posted workers issues. Interestingly, that these steps could be evaluated as not very effective for the reason of low interest in partnership from business that provides cross-border services. One proposal was that it is necessary to exchange information and discuss posted workers problems with biggest road transport companies.

In Latvia, the networking targeted on posting issues has been less developed. There has been two reasons behind. Firstly, the network has been fully functional with involvement of LCA. For instance, the questions of information exchange and international cooperation have been raised in Latvian round table discussions with concrete proposals how stakeholders could be involved. The participants have concluded the following: *The main conclusion of the round table is that there is a need for information exchange between countries, institutions and companies as well as employers and workers [...] In order to solve the problems of posted workers, there is a need of close cooperation between countries, institutions and organizations. For example, one of the solutions could be to implement the information network among countries and trade unions, to provide and share information about labour rights, wages and standards and procedures in each country*⁶⁴.

The individual interviews proved that focus on practical cases i.e. identifying practices of posting conditions abuse, social dumping or counselling posted workers are main preferences of trade unions and labour inspectorates⁶⁵.

3.2. INFORMATION EXCHANGE GAPS BETWEEN TRADE UNIONS, NGO AND POSTED WORKERS

The respondents indicated that the practices they have used for information sharing to target groups (drivers, builders, service providers) have been not always effective for various reasons. For instance, difficulties in finding posted workers, fear culture in some companies providing in trans-border services and employing⁶⁶. Thus experts tried to find the most appropriate channels for consultations and share of information. The contacts through the trade union members have been partially effective.

⁶³ Interview with LTf.

⁶⁴ Report on Round Table Discussion, 2015.05.22, Latvian Builders Trade Union

⁶⁵ Interview with LV1; LV2.

⁶⁶ Interview with LTf; LV2; LT3; LT2.

It is also important to highlight the effective forms of information sharing to posted workers. In Lithuania, trade union, NGO and in cooperation with the Ministry of Transport and Communications, the Ministry of Social Security and Labour and the State Inspectorate of Labour, opened the first informational center for posted workers and labour migrants on April 21, 2016, in the former border control post in Kalvarija (at the Lithuanian-Latvian border). It was established because of a few reasons: 1) why it is aimed at the evaluation and other projects to have an added value; 2) because social dialogue has to be developed by practical means; 3) because such a centre is a good example of cooperation; 4) as such centre is particularly useful to the EU citizens who cross the border and this information is particularly useful; 5) this improves and broadens the infrastructure of services in the border areas. In this centre, truck drivers are provided with the necessary information on labour law in Lithuania and minimal labour conditions in the EU. In addition, this centre at the border is practical implementation of the EU migration policy. The activity of the information centre comprises the following: 1) monitoring and analysis of problems of labour migrants and posted workers; 2) information and consultation of visitors on safety, health and other questions. It should be noted that a part of consultations regarding the present project were provided in this centre.⁶⁷

In Latvia and Lithuanian, also forms of individual consultations have been used for by trade unions for working with posted workers. For instance, model of consultations in Lithuania have been successfully used for information sharing to posted wo: 1) finding truck drivers (mostly by telephone calls because other channels have been ineffective) and arranging the meeting in the place which is the most appropriate for the driver (i.e. truck stop and rest area). The expert tried to find the safest and the most appropriate place because some drivers were worried about meeting the trade union representative; 2) consultations in simple language, first explaining (in very simple language, the legal status of drivers in terms of labour relations; explaining the structure of remunerations (a part of drivers have got an understanding on what an allowance means, salary, etc.). The EU regulations were explained very shortly and in a simplified way. Only 20-30 percent of posted workers had some awareness about the regulations. The most drivers from Ukraine, Russia, Kazakhstan and Belarus had some understanding about the issues discussed while working for Lithuanian companies as posted workers⁶⁸.

Operational shortcomings. Different respondents indicate that it is difficult to exchange information or to find it in regard of new trends in posting. This difficulties have to do with limited resources or with language problems. In was notice in interview that it is difficult to find information about third country nationals coming as posted workers with working permissions in Poland:

There is evident need of information. I could say, if I know someone to ask, I would do it immediately. The best way would be to make personal contact. Unfortunately, I could not do this. [...] The focus should be on incoming posted workers. It would be important to have the contacts with third country nationals, for example, Ukraine. 100 percent of posted workers, we are dealing with are third country nationals⁶⁹.

⁶⁷ Interview with LTf; LT2.

⁶⁸ Interview with LTf; Posting of workers: enhancing administrative cooperation and access to information in Baltic region (VS/2014/011), Project monitoring and evaluation report. Vinius, 2016.

⁶⁹ Interview with LT1.

One respondent noticed that Poland there is good practice how to solve problem for finding information and targeting on special posted workers groups:

The recent initiative of the Inter-company Trade Union of Ukrainian Workers in Poland (Międzypodstawowy Związek Zawodowy Pracowników Ukraińskich w Polsce) registration in June 2016 indicates the possible path for rise and development of networks, involved not only in information sharing (as the basic form of contacts) but also more advanced forms of cooperation (e.g. arranging for aid to be provided to persons in need in their current location). Conversely, similar initiatives in the other Member States targeting foreign workers should be monitored by public authorities and social partners, and subsequently used to build up networks of cooperation with their counterparts in other EU countries (from Polish perspective such initiatives that triggered some forms of cooperation in the past included hiring of Polish-speaking union officers/organisers by trade unions in the UK and Ireland)⁷⁰.

In this interview indicates about enhancement of cooperation between Labour inspectorates and NGO or trade unions targeting on joint inspections.

3.3. CONCLUSION AND INFORMATION SHARING GAPS

1. To sum up, the formal network have been set up in Baltic states and Poland for provision of projects financed by EC activities. The cooperation have taken place on level for exchanging information, sharing best practices, consulting on common national positions/strategies. The international, national conferences and round tables have used as tools for information exchange. Furthermore, these networks have been enabled on level: 1) EU level 2) Regional on EU posted workers policy reform (Common memorandums, etc); 3) National on administrative issues (cooperation on information exchange with labour inspectorates) and social dialogue (Lithuanian case in Transport sector); 4) Subnetwork formed on road transport sector. The main aim of networks has been exchange of information on posting workers policy matters as well discussing posted workers problems, good practices. All the networks are in start-up phases. The broad diversity of information exchange practises has been found in these networks. On national level, cooperation seems to be concentrate on policy position development in transport sector, information exchange on problems in regard of posted workers and abuse practices, etc.
2. The strongest and more or less developed network is in Lithuania. In Estonia, this network is targeted to transport sector and partnership between Estonian and Scandinavian and Baltic trade unions. In Latvia, existing organisations aimed at bilateral cooperation on urgent issues. The Estonian and Latvian labour inspectorates have
3. The information exchange and cooperation well developed on regional level. The cooperation is based on two networking platforms: 1) Baltic states and Poland Labour inspectorates' partnerships have been based on bilateral and multi-lateral agreements, annual meetings, personal contacts between civil servants. The information exchange has been provided via IMI systems on posted workers cases. The Poland has been relatively new actor in this cross-border administrative network; 2) The social partners network has been base on various

⁷⁰ Interview with PL2.

actors (NGO, trade unions, business associations, Lithuanian labour inspectorate) relevant to posting and cross border service provision. This network has been based on EC financed projects and aimed to information exchange, best practice sharing and building common position on EU Posted workers policy proposals.

4. When looking to cooperation in networks, it seems that the most successful interactions are in those networks that strong mutual interests, such as the cooperation between social partners and government institutions on posted workers issues relevant to transport sector. Regionally, the new trend of posting (incoming third country nationals with working permissions issued in Poland and send as posted workers to Baltic countries) advanced cooperation between labour inspectorates and involvement of some social partners.
5. The cooperation based on EC finances projects founded regional and national networks with involvement of social and government actors. These networks have been aimed at information exchange. Unfortunately, the networking have become informal only in some cases it was institutionalised (Lithuanian transport sector). It seems that partners cooperate depending on the commonalities of the projects.

Gaps in information sharing:

Gaps in information exchange on regional level (Between Baltic states and Poland)

1. Different approaches with understanding of posting and tackling abusive practices. Differences between administrative cultures.
2. The tasks and objectives of cooperative networking vary from information exchange (national, regional level. The case/personal information or exchange of information about problems) to coordination of policy proposals for EU decision making authorities. There no systemic and continuous information exchange targets (except on network between Baltic states and Polish labour inspectorates).

Gaps in information exchange on national level

3. Lack of coordinated actions to reduce the scope of posting abusing practices. The information sharing during project or other activities (conferences and roundtables) have been not fully targeted on such issues. Mostly it was limited to data sharing, risk profiling and presentation of cases. I some cases it was lack of initiatives for cooperation due to low-interests or lack mutual trust of participating organisations.
4. Mistrusts and confrontations culture between social partners. Informal or project based cooperation could change into more institutionalise networks. The posted workers issues could be brought to agenda of sectoral social dialogue institutions.
6. Permanent cooperation of social partners based on the commonalities of the projects. Information exchange platforms are not enough cohesive and sustainable.
7. There gaps of networking by involvement of actors from the business side. In Lithuania and Estonia, the business organisations do not fully represent interests of businesses providing cross-border services.

8. Lack of information in respect third country nationals which have had working permission in Poland and have been send to Baltic states by using posted workers status.
9. Lack of effective platforms for cooperation and collaboration on national level in some sectors. For instance, the building sector does not have platform for social dialogue in Estonia and Lithuania due to very different business interests (business companies employing posted workers have been very small, working permanently) and low capacities of trade unions.
10. Lack of knowledge about posting trends and partners in different national regions (Polish case) or sectors (Latvian, Lithuanian case).
11. Difficulties in finding effective channel for informing posted workers PDA enforcement directive and other regulations.

4. COMMUNICATION PLAN

4.1. COMMUNICATION OBJECTIVES

Communication goal and objective 1

To develop effective and sustainable communication system for sharing information and consulting with posted workers.

Target audience/group

Posted workers working in building and road transport sectors (sending and incoming to Poland and Baltic States).

Desired actions:

1. Face to face communication with target group. Kalvariija and individual communication model could be used as good practice working by posted workers example. Inform posted workers;
2. Trade unions changing organisational strategies and operational work by making it more flexible and adaptive to needs of posted workers.

State objectives: *inform; engage.*

Target year: 2018-2020

Communication goal and objective 2

To develop effective and flexible communication system for exchanging information with companies providing cross-border services in transport and building sectors.

Target audience/group

Big and SME companies providing cross-border services in transport and building sectors

Desired action

1. Face-to-face contacts with CEO or top managers in form of meetings, round -table discussion, seminars. Promote idea of social dialogue and provide information about actual problems and possible solutions;
2. Analysis (market analysis, sociological review) and data list of companies working in transport and building sectors. Monitoring the economic activity sectors.
3. Information and legal counselling services for SME provided by NGO. Inform, educate, make expertise on practical cases.

State objectives: *inform; engage, maintain, motivate.*

Target year: 2018-2020

Communication objective goal and objective 3

To develop information exchange by contacting and proposing partnership with NGO and/or trade unions in Ukraine, Moldova and other countries as well as Inter-company Trade Union of Ukrainian Workers in Poland.

Target audience/group

Labour relations and legal experts in Ukraine, Moldova etc.

Desired action:

- 1) initiation of partnership projects for information exchange, best practices etc. Build personal contacts, share the information.
- 2) study meetings, visit or seminar (labour inspectorates and social partners involved). Build personal contacts, share the information.
- 2) making personal contacts for communication in case of need.

State objectives: *inform; engage, maintain.*

Target year: 2018.

Communication goal and objective 4

To develop practice of annual meetings of representatives of labour inspectorates on posting issues by integrating Poland as fourth partner; to present the administrative information to social partners.

Target audience/group

Labour inspectorate and social partners (NGO, trade unions and business associations).

Desired action

1. Annual meetings of labour inspectorates on round table and open conference with social partners and policy making institutions on posting issues;
2. IMI system data presented and discussed in conference;

3. Signed bilateral agreement on partnership between National Poland labour and Latvian State inspectorates.

State objectives: *inform; engage, maintain.*

Target year: 2018.

Communication goal and objective 5

To develop long-term and sustainable coalition network model for labour inspectorates, social – affairs ministries and social partners.

Target audience/group

Labour inspectorate, social partners (NGO, trade unions and business associations) and ministry.

Desired action

1. research study of project networking activities on posting issues and open discussions about best practices in networking and negative factors;
2. supportive projects for strengthening social partners;
- 3 modelling networking activities and testing in pilot project.

State objectives: *inform; engage, maintain.*

Target year: 2019-2020.

cedures and bureaucratic language (preferable English) understandable for both intercommunication sides. The special European projects could solve the problem as well as regional ones. Seminars, conferences and other platforms could form mutual understanding, build trust that is vital for cooperation.

3. Encourage informal cooperation as additional information exchange mode that would be complementary to share of information via IMI.