



MODEL AGREEMENT **XX/2020** ON CROSS-BORDER CONCERTED AND JOINT INSPECTIONS

This inspection shall be carried out in accordance with the law or practice of the Member State where the inspection takes place. This Agreement shall not affect any existing bilateral/multilateral agreements nor memoranda of understanding concluded by the participating Member States. This Agreement shall not entail any legal obligation for the signing parties, other than the ones described in Regulation (EU) 2019/1149. The parties to this Agreement shall only complete those parts that bare relevance for the case at hand.

1. Parties to the agreement

Member State A

Name of the coordinating national enforcement body:

Member State B*

Name of the coordinating national enforcement body:

European Labour Authority

2. Coordinators

General coordinator

Name of the general coordinator of the concerted/joint inspection:

[The general coordinator will be in charge of organisational and procedural matters, including drafting reports. The appointed person should be, in principle, one of the national coordinators or the ELA responsible officer.]

Member State A

Name of the responsible national coordinator:

Member State B*

Name of the responsible national coordinator:

European Labour Authority

Name of the responsible ELA Officer:

Name of National Liaison Officer for [Member State A]:

Name of National Liaison Officer for [Member State B*]:

3. Role of visiting officials from other Member States and ELA

(Art. 9(3) and 9(5) of the founding Regulation)

* If applicable, add Member States C, D etc.



4. Format and time-frame of the inspection

Please specify if the inspection is joint or concerted and if it is of general nature or targeting a specific issue

The parties agree to perform a:

- ☐ **concerted** general inspection
- ☐ **concerted** targeted inspection
- ☐ **joint** general inspection
- ☐ **joint** targeted inspection

for *[indicate specific period]*, to take place in the following Member State(s):

5. Scope of the concerted/joint inspection

For the definitions of the terminology used, you can consult for reference the Glossary of Terms developed within the European Platform tackling undeclared work.

The concerted/joint inspection aims to tackle:

- ☐ the non-compliance with the applicable European and national rules on the free movement of workers, and/or
- ☐ the non-compliance with the applicable European and national rules on the free movement of services (posting of workers)

Specify the economic sector targeted:

Specify the short-term and long-term targets of this inspection:

[Short-term targets can be penalties recovered, recovered contributions, business closure, protection of mobile workers etc. Long-term targets can be a reduction of undeclared work in the specific sector.]

6. ELA coordination and support

Please specify the type of coordination or support agreed with ELA and, if relevant, quantify the indicative amount of the requested financial support:

[ELA can provide conceptual, logistical and technical support and, where appropriate, legal expertise, including translation and interpretation services.]

7. Other stakeholders

List any organisations that will be involved in the inspection and specify their role.

8. Inspection plan

Parties to this Agreement will draw up a detailed plan of this inspection in accordance with the template set out in the Annex.

Signatures



Member State A	Member State B*	European Labour Authority
<hr/>	<hr/>	<hr/>
Name:	Name:	Name:
Function:	Function:	Function:
Institution:	Institution:	Date:
Date:	Date:	



ANNEX

Inspection Plan template

This Inspection Plan document is always applicable when ELA staff participation is envisaged in a concerted or joint inspection (CJI). When no ELA staff participation is envisaged, the use of this Inspection Plan document as guidance for the participants is encouraged and it can be used on a voluntary basis. This document is adaptable to the laws and practices of Member States participating in CJIs, and it provides detailed examples on how to proceed during a CJI. Parts of this document can be duplicated as needed, depending on the number of Member States taking part in a CJI (for Member State B, C, D, etc.)

Subject:

Reference number:

Briefing & debriefing

e.g. Before and following the inspection, a (de)briefing will take place at [location and time]. It is imperative that all concerned units/persons, and when applicable ELA staff, are present for preparing and evaluating the action, exchanging feedback and determining potential subsequent actions needed. In order to inform the participants to the concerted or joint inspection the goals should be explained:

- e.g. obtaining administrative documents
- e.g. interviewing of the employees and managers

<p style="text-align: center;"><u>Briefing MS A:</u></p> <p>Team A1 Address: Time of meeting:</p> <p>Team A2 Address: Time of meeting:</p>	<p style="text-align: center;"><u>Briefing MS B*:</u></p> <p>Team B1 Address: Time of meeting:</p> <p>Team B2 Address: Time of meeting:</p>
<p style="text-align: center;">Time of entry on inspection site:</p> <p>Inspected entity: (name and contact details)</p> <p>Owner/management: (name and contact details)</p> <p>Sub-contractors/related companies: (name and contact details)</p> <p>Other parties to be inspected: (name and contact details)</p>	

Coordination of the data exchange

Please specify which person(s) will be responsible for the exchange of all relevant data, including, if relevant, the coordination unit of ELA and specify which communication channels will be used (e.g. IMI). Provide contact details, such as a name, phone number, and e-mail address.

* If applicable, add Member States C, D etc.



Practical agreements in Member State A:

Describe the elements of the inspection, which Member State A deems essential.

1. Composition of team(s) in Member State A:

Team 1: e.g. Team responsible for investigating the main inspected entity (sub)contractors,

Meeting place:

Meeting time:

Team coordinator: *[name and contact details]*

Name	Phone number	Role
		e.g. Chief of police
		e.g. Chief of labour inspections
		e.g. Labour inspector
		e.g. ELA Staff

2. Describe the anticipated measures to be taken by team(s) in Member State A:

e.g.

- visiting the main inspected entity following the usual procedures
- interview of the employer
- hearings of the employees.
- visiting the accountant's office following the usual procedures
- searching for relevant documents and making copies

3. Desired information/documents/evidence to be obtained at the inspected entity(-ies) from dd/mm/yyyy onwards:

e.g.

- Timesheets, payslips
- Written contracts,
- E-mails regarding the personnel,
- All incoming/outgoing invoices,
- Bank transactions,
- A1 certificates

4. Methodology and further instructions:

a) Interviewing the employees and other concerned persons:

e.g.

- Describe the way the employees and other concerned persons (employer, site manager, representatives...) should be interviewed, in accordance with the national legislation, and without prejudice to the competences and collective rights of social partners, where applicable, under national law and/ or practice.
- Underline the need to explain to workers their rights and obligations, and how can they benefit from cooperation).
- Use standardised interview questionnaires for different types of interviewees (workers, foreman, manager, driver, client...).
- Familiarise with the questionnaires before the inspection.



- Use interpreters (burden of proof and following correctly the legislative requirements) and/ or cultural mediators (to facilitate contacts between inspectors and interviewed persons, in particular, when dealing with third country nationals) if necessary.
- Make use of mixed teams.

b) Collecting information

e.g.

- When entering the workplace, pay close attention to what people are doing, who they are working with, what work clothes they wear, etc. Be sure to make a note somewhere because the visual observations are important. Where appropriate and if allowed by national legislation consider taking pictures/ video.
- Pay due attention to the submitted identity documents. It is possible that false documents are submitted.
- Note the details of the company vehicles (registration number, etc.).
- If applicable, specify any special type of evidence that should be gathered (e.g. video evidence, original documents):

c) Requests for the colleagues in Member State B*:

e.g.

- In case employees mention receiving social benefits in Member State B, please contact [*name*] for verification.
- In case the owner(s) of inspected entity(ies) is encountered during the inspections in Member State B, please gather extensive information regarding [xxxxx].

d) Safety instructions:

e.g.

- The safety of the participants is always paramount.
- Checks are always carried out in couples of at least two people.
- Participants keep as much eye contact as possible.
- Participants never leave a colleague alone in the company. Leaving the inspected location must always be done in consultation with the general coordinator.
- Indicate the inspectorate/institution that will provide the safety equipment.

e) Logistical arrangements:

e.g.

- Transport to the inspection location will be arranged by [*name*] and shall depart from [*location*] at [*time*].
- All participating units will carry identification documents
- The following tools will be provided to the inspection teams: [*portable scanners, flash drives, photo/video cameras etc.*]

f) Further instructions or any other business:

e.g.

- In case paper documents are discovered, these shall be seized for making digital copies and a receipt note shall be issued to the inspected entity.
- When interviewing administrators, it is important to obtain their names, e-mails and telephone numbers for future reference.
- In case of legal questions, the ELA legal team shall be available via [*e-mail, telephone*].