

Strengthening labour mobility in the EU: a critical assessment of the Fair Labour Mobility Package

Leonardo Battista*

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Abstract

This essay examines the European Commission's Fair Labour Mobility Package and assesses its potential to strengthen the legal framework governing labour mobility within the European Union. It analyses the three main pillars of the initiative: the reform of the coordination of social security systems, the future role of the European Labour Authority, and the enforcement of workers' labour mobility. The essay argues that, despite its ambitious objectives, the Package leaves several structural shortcomings unresolved, particularly about enforcement mechanisms and institutional cooperation. It also highlights the absence of any proposal to revise directive no 54/2014/EU on Free Movement Bodies within the Fair Labour Mobility Package, describing it as a missed opportunity to improve the practical protection of mobile workers.

Keywords: Labour Mobility; European Union; Fair Labour Mobility Package; European Labour Authority; Free Movement of Workers; Free Movement Bodies; Social security.

1. Preliminary remarks.

In his 2024 report “*Much more than a market*”¹, Enrico Letta² referring to the relevant role of free movement of people in the EU stated that “intra-EU mobility enables individuals to ‘experience Europe’, opening doors to expanded prospects in education, employment, and lifestyle, while also providing opportunities for skill development”³. Looking at the workers’

* Senior Assistant Professor in Labour Law, Department of Sociology and Business Law, University of Bologna. The essay has been published within the framework of the Jean Monnet Chair “ESP - European Social Policy”, ERASMUS - LS (ERASMUS-JMO-2023-HEI-TCH-RSCH). The essay has been submitted to a double-blind peer review.

¹ Letta E., *Much more than a market. Speed, Security, Solidarity. Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens*, April 2024.

For a critical analysis of the Letta's report, see Monti G., *Much more than a market*, in *DKart*, 1, 2024, 14-18.

² Former Prime Minister of Italy and Dean of the IE School of Politics, Economics and Global Affairs.

³ Letta E., *nt.* (1), 102.

perspective, their mobility within the Union is a pivotal tool to deliver growth and opportunities in the European single market, capable of granting prosperity for European citizens “at times of restless technological change, climate urgency and geopolitical competition”.⁴ Since her first Presidency, the President of the European Commission von der Leyen confirmed the relevance of labour mobility as a focus of the Union⁵ and as an absolute and crucial condition for the single market to function efficiently and fairly. Similarly, in the European Pillar of Social Rights (EPSR) Action Plan of 2021 renovating the future political agenda based on the EPSR, the European Commission stated that its strategy on labour mobility is ambitious and should be promoted, alongside with the improvement of employment rights and working conditions, being a “key for a well-functioning internal market”.⁶

This renovated attention devoted to the labour mobility from the European Commission has been translated into a recent strategy aimed at facilitating labour mobility, through the public consultation for the adoption of a “Fair Labour Mobility Package”, an empowered role given to the European Labour Authority⁷ and the long-awaited modernisation of social security coordination.

The essay will briefly contextualize the relevant feature of the labour mobility at EU level, from the mercantilist approach devoted to the freedom of workers in the founding Treaties and to the renovated attention to the topic. The attention will be devoted to the recent agenda of the European Commission in this field, defining the possible strategic interventions and shortcomings related to the Fair Labour Mobility Package and looking at the omission to a possible revision of current EU legislation, such as the inefficient directive 2014/54/EU on Free Movement Bodies.

2. Labour mobility in the European Union: where do we stand?

The topic of mobility at EU level can be translated into many shapes, being the main cornerstone of the European integration. As known, this concept is deeply related to the four fundamental freedoms enshrined into the founding Treaty of Rome. Thanks to the mobility of capital, goods, services and people it was possible to create an internal market, in a first place, and, lately, a flourishing single market, that has been beneficial for companies and citizens granting a long-lasting peace in Europe.

⁴ von der Leyen U., *Speech by President von der Leyen at the European Parliament plenary debate on “High time to deliver on the Single Market, providing certainty and predictability for EU businesses and quality jobs”*, Speech no. 16/1110, Strasbourg, 20 May 2026.

⁵ European Commission, *Mission Letter for Margaritis Schinas*, 1 December 2019, 4.

⁶ European Commission, *The European pillar of social rights action plan*, Publications Office, 2021, 21.

⁷ European Commission, *Report from the Commission to the European Parliament, Council and the European Economic and Social Committee. Evaluation of the European Labour Authority (ELA)*, 26 May 2025, COM(2025) 256 final. For a deep overview of the European Labour Authority see Battista L. *Il lavoro sommerso e il ruolo dell’Autorità Europea del Lavoro*, Cacucci Editore, Bari, 2022. See also Cremers J., *Strengthening the mandate of the European labour authority*, in *FES Briefing*, 2024, 1-4.

It is worth noticing that in the Treaty of Rome, even if both are included in the Title III, the freedom of movement of workers provided by art. 48 ECC Treaty and the freedom of establishment (art. 52 ECC Treaty) are part of the quartet of economic freedoms that protected the mobility of factors of production within the European Economic Community. This reflected the relevance of the economic and trade theories that, during the initial stage of the ECC, emphasised “the welfare gains of liberalising the flows of the said factors of production”.⁸ Such mercantilist approach, combining labour and capital as a factors of production,⁹ never left the political and legislative debate, as proved by the reference into the third recital of the Regulation no. 1612/68/ECC on freedom of movement for workers within the Community where the “mobility of labour must be one of the means by which the worker is guaranteed the possibility of improving living and working conditions and promoting his social advancement, while helping to satisfy the requirements of the economies of the Member States”¹⁰. A quote that, in a more nuanced version, is not so far from the already mentioned European Commission statement about the labour mobility as a pivotal key for a well-functioning single market.¹¹

Alongside with this mercantilist approach, focused in granting a better allocation of workers within the EEC where the employment would be more productive, the freedom of movement of workers was connected to the guarantee, offered by the Treaty, that these persons¹² would not be discriminated, removing administrative barriers between different States in order to promote mobility, as well as ensuring treatments no less favourable than those granted by the host country to its own workers.

The ban for any discrimination, firstly related to nationality and gender and lately to a series of potential discriminatory factors, such as disabilities, age, language and many others, facilitated the possibility to enjoy the movement within the EU. In fact, the core protection of workers who decided to move and work in another Member State derived from the protection against discrimination. Movers had the right to become member of the welfare community of the hosting Country on the same basis as nationals, being integrated into their welfare systems and in the economy of that Country¹³.

In order to fully enjoy such freedom and such integration in another welfare system in the ECC without losing any social contribution related, the EEC had to intervene to coordinate social security career through the coordination of national social insurance and security system. With the Regulation no. 1408/71/EEC, it was possible for a worker to move to another Member State without losing his social security entitlements. The easiest reference case for such entitlements concerned the possibility of counting years of social contributions

⁸ Menéndez A. J., *Which free movement? Whose free movement?*, in Borelli S., Guazzarotti A. (eds.), *Labour mobility and transnational solidarity in the European Union*, Jovene Editore, Naples, 2019, 26.

⁹ Spaak P.-H., *The Brussel Report on the General Common Market. Unofficially referred to as the Spaak Report*, 1956, 18-20.

¹⁰ Regulation no. 68/1612/EEC on freedom of movement for workers within the Community.

¹¹ European Commission, nt. (6).

¹² Giubboni S., Orlandini G., *La libera circolazione dei lavoratori nell'Unione Europea*, Il Mulino, Bologna, 2007, 11.

¹³ Verschueren H., *Eu free movement and Member States. Solidarity systems: searching for a balance*, in Guild E., Minderhoud P. (eds.), *The first decade of EU migration and asylum law*, Martinus Nijhoff Publishers, Leiden-Boston, 2012, 47-74.

paid in different social security institutions, on a *pro rata temporis* scheme, for their pension eligibility.

Nowadays, the coordination of social security systems is governed by the Regulation no. 883/2004/EC. However, its effectiveness has been undermined by the continuous layering of legislative amendments and supplementary provisions over the original text. These shortcomings have prompted an ongoing revision process within the European Commission, aimed at simplifying the existing framework and making it easier for people to work, live or retire in other Member States, or to seek a job across the border – ensuring that their social security rights are well protected¹⁴.

Without this coordination, the freedom of movement would have been a hollow promise, leaving people with the threat of losing social contributions and limiting their movement. A barrier that could have had a negative effect on the already mentioned reallocation of workers within the common (now single) market from low productive territories to more productive ones.¹⁵

Nowadays, the labour mobility is granted to every EU citizen within the 27 Member States¹⁶ and even for third-Country workers with a residence permit in an EU Country, with some limitations related to the request of a new permit in the hosting Country.

Looking at the effective figures of such mobility, and thanks to the already mentioned entitlements, there are about 14 million of European citizens that live or work in another Member States as reported by the European Commission during the launch of the public consultation for the introduction of a Fair Labour Mobility Package.

However, several issues are connected to the labour mobility in the EU, creating barriers or redistributive problems among the EU27 and that's the reason for a relevant interest devoted from the European Commission to the revision of the rules concerning this topic.

In fact, as proved by several studies,¹⁷ the mobility from one EU Country to another should not only be seen in light of productivity, adopting the already mentioned economic

¹⁴ European Commission, *Commission welcomes important step to modernise EU social security coordination rules and strengthen fair labour mobility*, Press Release, Brussels, 29 April 2026, IP/26/929.

¹⁵ Among the six founding Member States, Italy had the greatest interest in the free movement of workers, primarily because it experienced the highest levels of unemployment. For the same reason, the full implementation of this right was deferred until the economic boom of the 1960s, when the economic context made the liberalisation of labour mobility politically and economically more feasible. See Wollenschläger F., *A New Fundamental Freedom beyond Market Integration: Union Citizenship and its Dynamics for Shifting the Economic Paradigm of European Integration*, in *European Law Journal*, 17, 2011, 3-4.

¹⁶ On the relevant entitlements related to the EU citizenship see: Giubboni S., *European citizenship and social rights in times of crisis*, in *German Law Journal*, 2014, 935-964; Lenaerts K., *European Union citizenship, national welfare systems and social solidarity*, in *Jurisprudencia/Jurisprudence*, 2011, 397/422.; Gottardi D., *La libera circolazione delle persone: dai lavoratori ai cittadini. L'impatto del principio della parità di trattamento*, in Treu T., Barbera M., Napoli M., Magnani M., Ferrante V., Alessi C., Bollani A. (coord.), *Studi in onore di Tiziano Treu, Lavoro, Istituzioni Cambiamento sociale, III, Diritto della previdenza sociale e del mercato del lavoro. Diritto europeo. Lavoro pubblico*, Jovene, Naples, 2011, 1463; Eeckhout P., *The Growing Influence of European Union Law*, in *Fordham International Law Journal*, 33, 5, 2011, 1493; Wollenschläger F., nt. (15), 14.

¹⁷ Among them see: Holland D., Fic. T., Rincon-Aznar A., Stokes L., Paluchowski P., *Labour mobility within the EU - The impact of enlargement and the functioning of the transitional arrangements. Final report – Country case studies*, Commissioned by the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013), 2011.

lenses to visualize this topic, but it should be also evaluated from the perspective of the home Country.

After the EU enlargement in 2004, the scale of east-west mobility raised significant concerns about the risk of brain drain, as the emigration of highly skilled workers threatened to reduce the stock of human capital in the sending Member States. In the long run and without any redistributive policy,¹⁸ it could create several problems also related to the age of migrant workers leaving their Country, which are typically included in the 18-34 years range, causing an internal labour shortage for high-skilled jobs and an impoverishment of the society.¹⁹

From the hosting Countries, instead, there is the threat for welfare migration, even if this issue is only a potential one. In general, it has been proved that EU migrant workers “contribute more to their host countries than they consume in the form of public services and benefits”.²⁰ However, it is not surprising that the concept of “welfare tourism” has always being part of the political vocabulary during the years.²¹ Looking at the Brexit, for example, there was as an escalated politicisation due to right-wing parties before the referendum and, in general, some of the “most vociferous expressions of anti-EU sentiment have revolved around intra-EU migration and cross-border access to national welfare systems”.²²

Another relevant problem regarding the labour mobility within the EU refers to the portability of skills and qualifications. The recognition of qualification from one Member State to another is not always straightforward.

The portability of qualifications and skills can be difficult within the EU because documents often differ in format, terminology and assessment methods. Their language may also create significant barriers, including economic ones, as migrant workers may have to bear substantial translation costs, including certified translations, simply to apply for a job or obtain recognition of their previous professional experience. This issue is currently being reviewed by the European Commission through the “Skills Portability Initiative”, which may lead to a legislative proposal aimed at facilitating worker’s mobility by improving the transparency of skills and qualifications, in line with previous EU tools such as the European Qualifications Framework (EQF), the Europass platform, the ESCO taxonomy and the EURES cooperation network. Alongside this strategy, the Commission has highlighted the risk that professionals may be prevented from accessing regulated professions in another Member State because their qualifications lack formal recognition. A well-known example

¹⁸ Even if, it should be noted that the free movement of capital has always played a relevant role to grant the possibility for remittances from one Country to another, granting a support to the family remained in the home Country. However, these remittances created a new kind of problem linked to the acquisition of houses in the home Country, causing a boost in the real estate market with a significant push for the prices, raising economic pressure for non-migrant workers who remained in their Country. See Markova E., *Optimising migration effects: A perspective from Bulgaria*, in Black R., Engbersen G., Okólski M., Pantiru C. (eds.), *A continent moving West? EU enlargement and Labour migration from CEE*, Amsterdam University Press, Amsterdam, 2010, 218.

¹⁹ *Ibidem*, 219-220.

²⁰ Schmidt S. K., Blauberger M., Sinbdjerg Martinsen D., *Free movement and equal treatment in an unequal union*, in *Journal of European public policy*, 25, 2018, 1391-1402, *spec.* 1392.

²¹ Blauberger M. Heindlmaier A., Kramer D., Sinbdjerg Martinsen D., Sampson Thierry J., Schenk A., *ECJ Judges read the morning papers. Explaining the turnaround of European citizenship jurisprudence*, in *Journal of European public policy*, 25, 2018, 1422-1441, *spec.* 1423.

²² Schmidt S. K., Blauberger M., Sinbdjerg Martinsen D., nt. (20), 1400.

concerns Spanish *abogados*, whose recognition process remains lengthy, complex and still not common, and who are registered not in the general register of Italian lawyers but in an *ad hoc* register.²³

A similar and relevant problem can be seen also with reference to national from third countries and the recognition of their qualifications and skill²⁴ that has been defined as “fragmented, complex and inefficient”²⁵ by the European Commission itself. It also has an impact on the solution of labour shortages in EU, posing a “significant challenge to the Union’s aspiration to remain a competitive global leader”²⁶ even attracting workers from third-nation Countries.

In order to tackle these issues and many others, such as “cross-border labour criminality through, inter alia, the use of letterbox companies, tax evasion, social security fraud and the exploitation of workers posted between EU countries and from third countries”²⁷ and the respect of the norms related to the transport sector,²⁸ the European Commission launched an open consultation looking for an improvement in this field through the adoption of a future directive or regulation.

3. Fair Labour Mobility Package: opportunities and shortcomings.

As reported in the von der Leyen’s mission letter addressed to the current Commissioner for People, Skills and Preparedness Roxana Mînzatu, one of the aims of the actual European Commission is to “facilitate labour mobility, whilst ensuring that rules are properly enforced with the support of a strong and empowered European Labour Authority”²⁹.

Such activity, according to the 2026 EU legislative agenda should be performed through the Fair Labour Mobility Package, a comprehensive policy strategy aimed at facing challenges in such field through the modernization and simplification of rules and practices in terms of

²³ See Directive no. 5/98/EC.

²⁴ Recommendation no. 2611/2023/EU of 15 November 2023 on the recognition of qualifications of third-country nationals, C/2023/7700.

²⁵ European Commission, *Call for evidence for an impact assessment. Skill Portability Initiative*, Ares(2025)10759940, 2025, 2.

²⁶ Recommendation no. 2611/2023/EU of 15 November 2023 on the recognition of qualifications of third-country nationals, C/2023/7700.

²⁷ Feedback from the Swedish Trade Union Confederation, LO Sweden, 2 February 2026, Feedback reference F33370181:

https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15553-Fair-labour-mobility-package/F33370181_en.

²⁸ On the relevant issues concerning the transport sector see: Battista L., *Concerted inspections in the road transport sector: which role for the European Labour Authority?*, in *Italian Labour Law e-Journal*, 16, 2023, 67-81; Bini S., *The posting of workers in the road-transport sector, in the light of the Directive (EU) 2020/1057*, in *Italian Labour Law E-Journal*, 16, 2023, 83-94.

²⁹ von der Leyen U., *Mission Letter to Roxana Mînzatu, Executive Vice-President-designate for People, Skills and Preparedness*, 17 September 2024, Brussels, available at the following link:

https://commission.europa.eu/document/download/27ac73de-6b5c-430d-8504-a76b634d5f2d_en?filename=Mission%20letter%20-%20MINZATU.pdf

mobility within the Union, as recently reported by the European Commission Communication on the European Pillar of Social Rights.³⁰

It should be noted that the attention to the labour mobility, at least in the last years, has been supported even within the Council of the EU. In fact, this topic received a relevant space in the *La Hulpe Declaration on the Future of the European Pillar of Social Rights*, adopted in April 2024 under the Belgian Presidency of the Council of the EU and signed by the European Commission and the European Social Partners (BusinessEurope, the European Trade Union Confederation, SGI Europe and SMEunited).³¹

Under the section related to “Fair working condition”, the *La Hulpe Declaration* stated that there is the need to adopt “measures to foster fair and effective labour mobility across the European Union”.³² Such strategy should consider the improvement of the ability to detect fraud and abuses related to the cross-border mobility for EU and third country nationals, with special attention to measures in the areas of sub-contracting and agency work.

Looking at the mentioned 2026 strategy, this aim has been translated in several targets, such as improving labour mobility, revising and modernizing the coordination of social security systems and strengthening the role of the European Labour Authority in this context.

Fostering labour mobility, according to the European Commission, can contribute to tackle some relevant problems that have an impact on the single market.

The movement of workers from one place to another could simultaneously tackle labour shortages in one Country and unemployment in another. While it is a desirable solution and advantage for the labour market, this correlation is not so straightforward. On the contrary, it has been noticed that those who normally enjoy the greater mobility offered by the Treaties are high-skilled workers who could easily find a job even in their home country. So, their movement is not related to an unemployment situation but to a legitimate willingness to improve their wages and working conditions in a more flourishing market.

An issue that is well-known from the European Commission and has always been part of the puzzle, as reported by the European Commissioner Andor in his speech in 2014, who stated that “income and wage differentials are among the main push factors for labour mobility, as well as short-term job prospects and expectations”.³³ At the same time, he could not neglect the problem related to the movement of skilled workers outside a Country, in terms of knowledge impoverishment, and to the risk that they could be even employed in jobs in which they are over-qualified in the host country.³⁴

Similarly, if we consider low-skilled mobile workers, their movement can be both beneficial or problematic depending on the sectors of employment and the risks related to

³⁰ European Commission, *Communication from the Commission to the European parliament, to the Council, the European economic and social committee and the committee of the regions on the European Pillar of Social Rights*, 22 July 2026, COM(2026) 650 final, 13.

³¹ *La Hulpe Declaration on the Future of the European Pillar of Social Rights – Preparation for the approval*, Document no. 8434/2024, Brussels, 6 April 2024.

³² *Ibidem*, para. 19, 9.

³³ Andor L., *Labour Mobility in the European Union – The Inconvenient Truth*, Lecture at the University of Bristol, 10 February 2014, 9.

³⁴ *Ibidem*, 17.

abuses and labour exploitation. From one side, they could enjoy a better working condition in the hosting Country and a higher wage - if the employment is a lawful one - but, on the other side, they risk to be exploited due to the asymmetry of information related to the sectors in which they are employed and the language barrier that could be an obstacle for them.³⁵ It has been proved by the European Labour Authority during its campaign on seasonal work where in the agricultural sector there was a high risk of exploitation of EU and third-countries workers due to the low awareness of their rights and their vulnerability related to precarious living and working conditions.³⁶

In the Fair Labour Mobility Package, the aim of fostering mobility of workers is also linked to the labour shortages in “critical and/or growing industries”,³⁷ showing an explicit reference to the market reasons behind such policy. In fact, the movement of workers could contribute to the growth of strategic economic sectors that are seen as a priority in the EU single market, such as AI with the relevant investments in automation, microchips and robotics, FinTech with the launch of the Digital Euro³⁸ and data analytics for financial investments and, lastly, biotechnology due to the challenges posed by the aging population. In this case, the labour mobility is not seen as a tool for workers to improve their working conditions or their living ones, but as an instrument for the economy to be competitive by exploiting skills and competencies that could be more productive in one part of the EU rather than in another.

As proposed by Draghi in his recommendations annexed to Report on the future of European competitiveness, who devoted a paragraph to the problem of low mobility, a “greater labour mobility can help alleviate existing shortages by improving the allocation of skills and labour capacity within and across Member States”.³⁹ According to Draghi, the EU, in case of a relevant skill shortages could also evaluate the possibility to facilitate the mobility of third country “skilled professionals in critical segment, such as batteries” and microprocessors to be more competitive by attracting talents from abroad.⁴⁰

A cynical reasoning that is totally in line with the economic interests that have always characterised the Union.

³⁵ This problem is easily seen in the agricultural sector where there is a high risk of exploitation. In these terms see Bruzelius C., Seeleib-Kaiser M., *Enforcing outsider's rights: seasonal agricultural workers and institutionalised exploitation the EU*, in *Journal of ethnic and migration studies*, 49, 16, 2023, 4188-4205, spec. 4190. The Authors refer to the risk of “institutionalised exploitation in the EU” due to infrequent penalties and poor deterring effects in sectors such as agriculture and forestry which lead to the institutionalisation of the migrant workers as outsiders and highly exploited workers.

³⁶ European Labour Authority, *Right for all seasons*, 2021, see <https://www.ela.europa.eu/en/campaigns/rights-all-seasons>.

³⁷ European Commission, *Fair Labour Mobility Package*, Ares(2026)23571, 2026, 1.

³⁸ See https://www.ecb.europa.eu/euro/digital_euro/html/index.en.html.

³⁹ Draghi M., *The future of European competitiveness, Part B: In-depth analysis and recommendations*, September 2024, 265.

⁴⁰ *Ibidem*, 137.

3.1. Revising the coordination of social security systems: a long and fraught legislative process.

As already mentioned, there is no labour mobility without the promise of a protection of social security rights. This was the main reason for the embryonal coordination of social security system adopted with the Regulation no. 1408/71/EEC and the current Regulation no. 883/2004/EC.⁴¹ As reported in the 2016 proposal for revising the Regulation no. 883/2004/EC and Regulation no. 987/2009/EC, the “free movement of persons would not be possible unless the social security rights of mobile Europeans and their family members were protected”.⁴²

There have been several attempts⁴³ to revise the rules in this field, in recognition of the significant administrative burdens and legal uncertainties faced by both workers and companies operating across borders. In particular, the coordination framework was not designed to establish a coherent regime for long-term care benefits or family benefits, leaving mobile workers exposed to potential disparities in treatment across the Union.

Similarly, there were many problems related to the access to social benefits for EU citizens who neither work nor actively search for a job, limiting these entitlements only to an employment contract or for a limited period of time for job-seeking looking for a reintegration in the labour market. Even for the last-mentioned group there were some problems related to the lack of coordinated obligations that could be even circumvented or exposed to frauds.⁴⁴

However, as reported by the Council of the EU in June 2026, “applying social security coordination rules continue to be challenging in the light of rapidly evolving labour market realities, including emerging forms of work, such as telework, which poses significant challenges as regards the determination of applicable social security legislation”.⁴⁵ In fact, it is not impossible for workers to be exposed to double contributions and the loss of accumulated rights. Similarly, the European Parliamentary Research Service highlighted that the “traditional links between the place of work and the applicable social security rules have been blurred by increasing telework, platform-based work, cross-border and multi-state professional activities”, thus it is necessary to intervene in such context.⁴⁶

⁴¹ Giubboni S., Iudicone F., Mancini M., Faioli M., *Coordination of Social Security Systems in Europe*, Study for the EMPL Committee, 2017, 12. See:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2017/614185/IPOL_STU\(2017\)614185_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/614185/IPOL_STU(2017)614185_EN.pdf).

⁴² Proposal for a Regulation of the European Parliament and of the Council amending Regulation no. 883/2004/EC on the coordination of social security systems and Regulation no. 987/2009/EC laying down the procedure for implementing amending Regulation no. 883/2004/EC, 2016/0397 (COD), 2016, 2.

⁴³ It is relevant to notice that the Proposal for a Regulation amending the Regulation no. 883/2004/EC and Regulation no. 987/2009/EC on which recently was reached a provisional agreement on was initially proposed by the European Commission in 2016. See https://eur-lex.europa.eu/resource.html?uri=cellar:2f44420c-c1e6-11e6-a6db-01aa75ed71a1.0003.02/DOC_1&format=PDF.

⁴⁴ Council of the European Union, *Advancing fair labour mobility through modernised and simplified social security coordination rules - Exchange of views*, 12 June 2026, Brussels, see: <https://data.consilium.europa.eu/doc/document/ST-10383-2026-INIT/en/pdf>.

⁴⁵ *Ibidem*, 2.

⁴⁶ European Parliamentary Research Service, *Reforming EU social security coordination*, PE 791.447, 2026, 2.

All these shortcomings had already been identified by the European Commission in 2016, when it launched the previous - ultimately unsuccessful - Labour Mobility Package, including a proposal to reform the social security coordination rules by the Regulation no. 883/2004/EC. Although provisional agreements were reached on certain issues, such as the coordination of long-term care benefits and the access of economically inactive mobile EU citizens to social benefits, the proposal has remained effectively stalled for almost a decade due to persistent disagreements among the Member States and the European Parliament.⁴⁷

After several years of political discussions in the trilogue where it was “impossible to bring the positions of the Council and the European Parliament closer together”,⁴⁸ the Polish Presidency acknowledged the willingness of the Council to continue working on this dossier and resumed it. It was also useful to remember that the same willingness was shared by the von der Leyen’s Commission, showing a unity of purpose on the revision of social security coordination in the Union, as proved by the insertion as a priority in the Fair Labour Mobility Package.

In line with the intention of the European Commission, in April 2026 the European Parliament and the Council reached a provisional agreement rounding off some of the outstanding issues that previously hindered any deal.

The provisional agreement contained different topics, such as, among the others, new rules concerning unemployment benefits for cross-border workers and the mandatory prior notification for posted workers in an EU Country.

For what concerns the first topic, the provisional agreement stated that, after 22 weeks of affiliation with the Member State of employment and consequent registration in its social security system, this Country becomes responsible for unemployment benefits for the first six months. After this period, responsibility for the payment of the benefit will shift to the Member State of residence. This objective can only be achieved by strengthening cooperation and information-sharing among national social security institutions, with particular emphasis on the activation measures and job placement procedures laid down in art. 55 of Regulation no. 987/2009/EC, as long as a restriction on conditionality on unemployment benefits.

Peculiar is the case of Luxembourg that, due to the possible administrative burden related to this obligation and to the structure of its labour market, received a transitional period of three years to adjust the internal social security system. As reported in the recital 10(a) of the provisional agreement text, the labour market in Luxembourg is characterised by a relevant proportion of frontier workers “which greatly exceeds the proportion of frontier workers in the working population of any other Member State”, needing an additional phasing in period to prepare and face the increased administrative burden.⁴⁹

⁴⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulation no. 883/2004/EC on the coordination of social security systems and Regulation no. 987/2009/EC laying down the procedure for implementing amending Regulation no. 883/2004/EC, 2016/0397 (COD), 2016, 6.

⁴⁸ In 2025, the Polish Presidency of the Council put forward a revised Council mandate and organised new trilogues in order to reach an agreement between the European Parliament and the Council itself. See Council of the European Union, *Preparation for the trilogue*, 7 April 2025, 7688/25, 2.

⁴⁹ Council of the European Union, *Analysis of the final compromise text with a view to agreement*, 23 April 2026, 8387/26, 5. See: <https://data.consilium.europa.eu/doc/document/ST-8387-2026-ADD-1/en/pdf>.

This issue and the solution granted to safeguard the Luxembourgish social security system depict the common intent to reach an agreement on the revision of the Regulation no. 883/2004. An achievement, in terms of political negotiation, that seemed impossible only 10 years ago.

For the prior notification for workers temporarily posted to work in another EU country, the situation was extremely blurred. Indeed, this issue was one of the main points on which the negotiations following the 2016 revision proposal ultimately failed. In particular, Member States adopted divergent positions regarding the proposed mandatory obligation to transmit the A1 certificate to the host Member State. More specifically, the A1 certificate is a portable document used to certify which social security legislation applies to a worker moving to one or more EU Countries for work purposes. In the previous trilogue, the mandatory prior notification through the A1 certificate became a priority for the European Parliament, while the European Commission and the Council did not stress the introduction of any requirement in the 2016 revising proposal. In the provisional agreement, instead, the Council and the European Parliament agreed on a compromise, prescribing a mandatory notification for all postings with two exemptions: for business trips and activities of no more than three consecutive days within a month period. This compromise was necessary to avoid imposing an excessive administrative burden on both workers and national social security institutions, which could otherwise be overwhelmed by documentation relating to short-term cross-border activities.

Moreover, it was requested by BusinessEurope alongside with a “a system whereby a notification request is acknowledged through an automated confirmation of receipt, which is received without any time delay and which is considered as valid proof of prior notification if proof of this would be required during the course of a posting assignment”.⁵⁰

To reach such compromise, through the amendment of the art. 15 of the revising proposal, the European Parliament managed to introduce the mandatory notification for every cross-border activity in the construction sector, due to the relevant risk of fraud and accidents at work.

Looking ahead to the remainder of the legislative process, the provisional agreement was approved by the European Parliament on 7 July 2026 and is now awaiting formal adoption by the Council. This final step is expected to take place in September 2026, after which the new rules will enter into force on the first day of the month following their publication in the Official Journal of the EU.

This outcome is particularly remarkable considering that reaching the interinstitutional agreement required more than 18 trilogue meetings and spanned the terms of 14 successive Council Presidencies. Throughout this lengthy process, there was a significant risk that the proposal would be withdrawn, a scenario that, as was observed at the time, “would set Europe back a number of years and fail to provide much needed clarity to European employers on this vital issue”.⁵¹

⁵⁰ BusinessEurope, *Revision of Regulation 883/2004 on the Coordination of Social Security Systems: Prior notification and the need for digitalisation Joint employers statement*, 12 March 2025, 1.

⁵¹ *Ibidem*, 1.

However, the provisional agreement devotes only limited attention to improving digital cooperation among national social security institutions. As is well recognised, the digitalisation of data exchange could streamline the exchange of information, reduce fraud, and enhance administrative efficiency. Moreover, artificial intelligence could play a valuable role in automating and accelerating routine administrative tasks. Even if there is already the “Electronic Exchange of Social Security Information system (EESSI)” which should connect electronically 3120 social security institutions of the 27 EU Member States plus Iceland, Liechtenstein, Norway, Switzerland, and the United Kingdom,⁵² it is not prescribed any strict obligations for Member States in case of low usage or delay in terms of uploading data. While the expectation is that this IT solution should speed up and simplify the exchange of information and avoid any paper-based communication, there are still delays related to the total integration of social security systems in the EU. In fact, since its first launch in 2017, the full implementation of EESI is expected in the last quarter of 2026 and some Countries are still not fully integrated.

As briefly anticipated, the provisional agreement contains no reference to the use of artificial intelligence as a supporting tool for verifying data, reducing response times for users, or matching information relating to the same individual across different national social security institutions in order to prevent duplicate payments, double contributions, or frauds. Yet AI-based systems could significantly enhance the efficiency and accuracy of administrative cooperation in this area. In addition, AI could assist users in identifying the appropriate forms or procedures for their requests through AI-powered chatbots, thereby relieving public administrations of routine administrative tasks and allowing them to devote greater resources to more complex and value-added activities.

This omission is particularly significant in light of the rapid and widespread deployment of artificial intelligence across virtually every aspect of people's lives, including the world of work. It is therefore to be hoped that this gap will be addressed through future initiatives of the European Commission, which has consistently promoted the responsible development and use of AI systems within the European Union.

3.2. Strengthening the European Labour Authority: between ambition and reality.

The last relevant topic launched within the framework of the Fair Labour Mobility Package concerns the strengthening of the mandate of the European Labour Authority (ELA), by supporting the Member States in terms of workers' mobility and increasing the “fairness and trust in the internal market”.⁵³

⁵² European Commission, *Social Security Coordination. Digital information exchange system. EESSI Q2 2026 Factsheet*, 2026, available at the following link:

<https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/7c5a28fe-e4d4-48ba-a113-f46a4f9e21a0/download>.

⁵³ European Commission, *Evaluation of the European Labour Authority (ELA)*, 26 May 2025, COM(2025) 256 final, 2025, 1.

The ELA was established by Regulation no. 1149/2019/EU to ensure fair labour mobility across the European Union and to assist Member States and the European Commission in the effective application and enforcement of the EU legal framework relating to labour mobility and the coordination of social security systems, thereby contributing to the achievement of a highly competitive social market economy in accordance with art. 3 TEU. Since becoming operational in 2019, the ELA has played a crucial role in enhancing cooperation among national authorities and supporting concerted and joint inspections concerning posted and mobile workers across a range of sectors through targeted enforcement campaigns. In its role as a facilitator, despite the constraints arising from its lack of enforcement powers,⁵⁴ the Authority has assisted national labour inspectorates in detecting fraud and labour exploitation across the Union, particularly in sectors that are especially vulnerable to abusive practices, such as transport, agriculture, hospitality (HoReCa), and construction.

However, the objective of strengthening the ELA's mandate in the field of labour mobility, as announced by the European Commission in the Fair Labour Mobility Package, appears overly ambitious in light of the findings of the evaluation of the Authority's mandate published in 2025. Although the Commission identified several areas in which the ELA's activities could be improved, referring also to labour mobility, it also acknowledged that no significant extension of the Authority's competences is possible without amending its Founding Regulation.

In the evaluation of the ELA's mandate, the European Commission summarised different objectives where the Authority showed its relevance in facilitating and enhancing cooperation between Member States, such as in the field of joint and concerted inspections (CJIs) where, in the first five years, the role of ELA increased the “common understanding of EU rules by national enforcement authorities”.⁵⁵

Looking more specifically on labour mobility, the evaluation noted that ELA has improved the access to information on mobile workers related to their entitlements, through campaigns translated in different languages and cooperating with Member States to support jobseekers to reach the EURES network.

However, these achievements are constrained by the current scope of the Authority's competences, particularly its limited ability to handle personal data, which is essential for supporting mobile workers - in addressing administrative barriers encountered when moving between Member States - or during on-site inspections. Similarly, significant shortcomings remain regarding the Authority's ability to request cooperation from Member States in the context of Concerted and Joint Inspections (CJIs). The ELA has no enforcement powers

⁵⁴ See Battista L., nt. (7), 168-176; Battista L., Cangemi V., *European Labour Authority: Prerogatives and Limits*, in Jorens Y. (ed.), *The Lighthouse Function of Social Law*, Springer Nature, London, 2023, 545-563; Rocca M., *European Labour Authority (ELA)*, in Biondi A., Ștefan O. (coord.), *Elgar Encyclopedia of European Law*, Elgar Online, 2026, html version; Van Nuffel P., *The European labour authority: Missing link in the cross-border enforcement of EU labour law*, in Rasnaca Z., Koukiadaki A., Bruun N., Lörcher K. (eds.), *Effective enforcement of EU labour law*, Bloomsbury Publishing, London, 2022, 385-406; Cremers J., *Strengthening the mandate of the European Labour Authority*, FES Briefing, 2024, 1-4.

⁵⁵ European Commission, *Evaluation of the European Labour Authority (ELA)*, 26 May 2025, COM(2025) 256 final, 2025, 3.

and is limited to a supporting role, without the possibility of actively participating in on-site inspections through its own staff or issuing inspection reports with autonomous legal effect.

These shortcomings were already highlighted by the European Parliament in its Resolution of 18 January 2024 on the revision of the ELA's mandate.⁵⁶ According to the Resolution, there is a need to strengthen the ELA's investigative powers in order to transform the Authority from a mere information hub into a genuine European Labour Inspectorate.⁵⁷ Effective enforcement could “bring an end to non-compliance with labour legislation, the circumvention of social security payments and tax evasion in cross-border activities”,⁵⁸ making it necessary to revise the ELA's competences in the field of cross-border enforcement and inspections. Only through such a strengthened mandate could the European Labour Authority genuinely “safeguard fair labour mobility”, as emphasised in paragraph 12 of the Resolution.

Moreover, the knowledge and experience acquired by the ELA since its establishment in analysing fraudulent and abusive corporate practices affecting labour mobility could provide significant added value through operational analyses conducted at EU level. This would contribute to the identification and exposure of high-risk sectors and unfair business practices, while also facilitating the exchange of best practices among Member States on how to prevent and address such cases effectively. However, this potential would remain largely unrealised unless Member States were under a clear obligation to cooperate closely with the ELA and allow it to play a more active role in their day-to-day activities.

Nevertheless, the European Commission's evaluation of the ELA's mandate makes it clear that, at the current stage of European integration, there is little room for extending the Authority's competences without encroaching upon Member States' sovereignty in the fields of labour inspections and enforcement. While a revision of the ELA's Founding Regulation could, in principle, provide an opportunity to strengthen its mandate, the current political context makes it difficult for the Commission to advocate for a significant expansion of the Authority's powers.

Against this background, calls to strengthen the ELA's mandate in the field of labour mobility appear, at least for the time being, to amount to little more than political aspirations. The most realistic outcome is likely to be a recommendation encouraging more structured and stable cooperation among Member States, particularly with regard to the exchange of information and data, together with a more coordinated framework for planning joint and concerted inspections in sectors that are particularly vulnerable to cross-border fraud. A scenario that repropose again the ELA's dependence on Member States' good will to actually fully operate in the field of labour mobility and, specifically, for concerted and joint inspections.

⁵⁶ European Parliament, *Resolution of 18 January 2024 on the revision of the European Labour Authority mandate*, 18 January 2024, 2023/2866(RSP).

⁵⁷ See Rocca M., nt. (54).

⁵⁸ European Parliament, *Resolution of 18 January 2024 on the revision of the European Labour Authority mandate*, 18 January 2024, 2023/2866(RSP), point 7.

4. The elephant in the room: the directive no. 54/2014/EU and its ineffectiveness.

Looking at the Fair Labour Mobility Package, one notable omission stands out.

Neither the proposed initiatives nor the accompanying press releases issued by the European Commission devote any attention to the directive no. 54/2014/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers, commonly referred as the Free Movement Bodies directive. This omission is particularly surprising in light of the role assigned to the bodies established under the directive in removing existing obstacles to the free movement of workers, including “the lack of awareness of EU rules among public and private employers and the difficulties faced by mobile citizens in obtaining information and assistance in the host Member States”.⁵⁹

The directive no. 54/2014/EU was adopted following the 2010 European Commission Communication “Reaffirming the free movement of workers: rights and major development”, which pointed out the need to address the evolving patterns of labour mobility that were frequently hindered by the incorrect application of Union law governing the free movement of workers.

To achieve these objectives, the directive required Member States to designate one or more national bodies responsible for providing information, assistance and advice to EU migrant workers and employers, while raising awareness of the rights conferred by Union law, as provided for in art. 4. Furthermore, pursuant to the art. 3, Member States are required to ensure that judicial procedures are “available to all Union workers and members of their family who consider that they have suffered or are suffering from unjustified restrictions and obstacles to their right to free movement or who consider themselves wronged by a failure to apply the principle of equal treatment to them, even after the relationship in which the restriction and obstacle or discrimination is alleged to have occurred has ended”.

The combined operation of these provisions is intended to enable mobile workers to obtain accurate information about the host Member State and to enforce their rights through dedicated and, ideally, effective judicial procedures, with the support of trade unions, non-governmental organisations and other representative bodies.

More than a decade after its adoption, however, the directive no. 54/2014/EU remains largely unknown to both workers and employers. Although every Member State has designated one or more Free Movement Bodies or “contact points”, as required by the directive, their practical effectiveness has proved to be limited.⁶⁰ This can largely be attributed to the considerable discretion left to Member States regarding the institutional design of these bodies, including their placement within the national administrative framework and the allocation of their powers and resources. As a result, significant differences exist across the Union in terms of visibility, accessibility and operational capacity.

⁵⁹ Minderhoud P.E., *What has Happened with Directive 2014/54 on Strengthening the Rights of EU Workers?*, in Minderhoud P.E.; Mantu S.A.; Zwaan K.M. (eds.), *Caught In Between Borders: Citizens, Migrants and Humans. Liber Amicorum in honour of prof. dr. Elspeth Guild*, Wolf Legal Publishers, Chicago, 2019, 164.

⁶⁰ Ristuccia F., *Free Movement of Workers in the EU*, in Biondi A., Ștefan O. (coord.), *Elgar Encyclopedia of European Law*, Elgar Online, 2026, html version.

The Dutch experience is particularly illustrative. During the transposition process, the Dutch Government took the view that directive no. 54/2014/EU did not require substantial legislative changes, considering that the existing institutional framework already provided adequate protection for the rights of mobile workers. This approach reflects the minimum harmonisation nature of the directive and illustrates how its practical impact has ultimately depended on the choices made by individual Member States. In other Member States, the Free Movement Body has been incorporated into existing institutions whose primary responsibilities extend well beyond the free movement of workers. Italy provides a notable example, as the designated body operates within the National Office against Racial Discrimination (UNAR), whose core mandate is to combat discrimination and promote equal treatment, specifically against racism. As a result, the Free Movement Body does not benefit from a dedicated institutional structure or sufficient human resources to carry out effectively the tasks assigned to it under directive no. 54/2014/EU.

This institutional design inevitably results in the low visibility of these bodies, thereby significantly reducing their accessibility and relevance for the workers they are intended to assist.

A second major limitation is that the directive does not confer any enforcement powers on the Free Movement Bodies. They are neither empowered to defend workers through binding decisions nor authorised to impose sanctions on non-compliant employers or public authorities. Their role is essentially limited to providing information and assistance, supporting claims brought by workers or trade unions, and, where appropriate, facilitating dialogue with the competent authorities. Consequently, their ability to secure effective remedies for mobile workers remains limited.

In this respect, the directive may be regarded as a largely symbolic legislative instrument.⁶¹ While its objective is to strengthen the protection of workers' rights and facilitate labour mobility within the Union, it does not equip the designated bodies with the powers necessary to ensure the effective enforcement of those rights. This institutional weakness resembles that of the European Labour Authority, that could be easily defined as a "toothless tiger"⁶², a "paper tiger"⁶³ or a dull blade. More than a decade after its adoption, the directive has yet to produce tangible results. Indeed, even the European Commission acknowledged in its 2018 evaluation report that it was not possible "to assess to what extent the implementation of the Directive has helped raise Union citizens' awareness of their rights regarding free movement" as reported by the European Commission in the evaluation report published in 2018.⁶⁴

In this context, the absence of any proposal to revise this directive within the framework of the Fair Labour Mobility Package is particularly striking. Due to its limited effectiveness

⁶¹ Minderhoud P.E., nt. (59), 168.

⁶² European Parliament, Document A8-0391/2018, 26 November 2018, 70.

⁶³ Muller F., *Les inspections communes et concertées, des tigres de papier?*, in Allamprese A., Borelli S., Morsa M. (eds.), *L'Autorité Européenne du Travail*, Bruylant, Bruxelles, 2020, 100; Battista L., nt. (7), 176.

⁶⁴ European Commission, *Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the implementation of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers*, 4 December 2018, COM(2018) 789 final, 9.

as a mechanism for protecting workers' rights in the context of labour mobility, there was the expectation that the European Commission could consider strengthening both its institutional framework and its enforcement mechanisms. By omitting any initiative in this regard, the Commission has missed an opportunity to reinforce one of the key legislative instruments designed to facilitate the effective exercise of the labour mobility within the Union.

5. Final remarks.

There is considerable interest in the future development of the Fair Labour Mobility Package. The public consultation launched at the end of 2025 attracted a significant number of contributions from national authorities, social partners and other stakeholders, demonstrating the widespread interest in further EU action in the field of labour mobility.

The first legislative initiatives under the Package are expected to be presented in the autumn. In the meantime, the European Commission has reaffirmed its commitment in its recent Communication on the European Pillar of Social Rights to “proactively and meaningfully reducing the administrative burden on businesses, workers and citizens, while upholding social standards”.⁶⁵ To this end, the Commission stated that the “Fair Labour Mobility Package will contribute to these objectives by promoting simpler, fairer and more effective rules for labour mobility, including for cross-borders workers, while strengthening enforcement and supporting the proper functioning of the Single Market”.⁶⁶

These objectives are fully consistent with President von der Leyen's broader political agenda. However, as this essay has shown, several structural shortcomings are unlikely to be addressed easily. As discussed in the previous paragraphs, the reform of the coordination of social security systems continues to face significant political and legal obstacles, as demonstrated by more than a decade of negotiations and a provisional agreement only recently signed. Likewise, any attempt to strengthen the ELA's mandate will inevitably have to confront the limits imposed by its Founding Regulation, as well as the Member States' primary competence for labour inspections and enforcement and the contrariety of employers' associations, as proved by the consultation.⁶⁷

⁶⁵ European Commission, *Communication from the Commission to the European parliament, the Council, the European economic and social committee and the committee of the regions on the European Pillar of Social Rights*, 22 July 2026, COM(2026) 650 final, 13.

⁶⁶ *Ibidem*.

⁶⁷ As reported by BusinessEurope, the “ELA can make further strides forward in its stated aim of supporting fair and effective mobility within its current mandate”, with no pressure to revise its mandate. See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15553-Fair-labour-mobility-package/F33370128_en. Similarly, the Confederation of Swedish Enterprise stated that “it is premature for the Commission to initiate a revision of ELAs founding regulation. Instead, the focus should be on maximising the potential of the existing mandate, rather than negotiating a new mandate. This approach is endorsed by the recent evaluation of ELA which was conducted by the European Commission. It points out that there is room to improve ELAs performance based on its current mandate and objectives. The evaluation does not point to a pressing need for the revision of the mandate. In particular, ELA should have a supporting and advisory role based mainly on voluntary participation of Member States in particular with regard to the inspection and

At the same time, the omission of any initiative concerning the revision of the directive no. 54/2014/EC represents a missed opportunity to strengthen one of the few instruments specifically designed to support the effective exercise of free movement rights at national level. An omission that was quite unexpected due to the known inefficiency of such directive.

To conclude, the future of labour mobility in EU therefore depends not only on simplifying existing rules, even if it's one of the European Commission's slogans, but also on building a more coherent and effective system of governance capable of ensuring that free movement is both genuinely accessible and adequately protected for all mobile workers. In this respect, the Fair Labour Mobility Package should be regarded not as the final stage of the reform process, but rather as the beginning of a broader reflection on the future of EU labour mobility and its enforcement architecture.

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