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SIMPLIFICATION PROCEDURES FOR HIRE:

- **WORKING SIMULTANEOUSLY IN SPAIN AND PORTUGAL**
- **TELEWORKING IN A COMPANY NON ESTABLISHED IN THE OTHER COUNTRY**

Galicia – Norte Portugal EGTC



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Galicia Norte Portugal EGTC. B-SOLUTIONS

**Simplification procedures for hire: to work in ES and PT simultaneously;
worker in teleworking in a company not established in the worker's
country**



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- Legal expert: Teresa Ventín (Cross Border EURES Galicia Norte Portugal Coordinator)



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BACKGROUND

Description of the obstacle:

- Cross- border workers have difficulties for developing their activity (physical or telematical) simultaneously in both countries
- The pandemic caused by Covid-19 worsened the situation:



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DESCRIPTION OF THE OBSTACLE

- Two main group of questions:
 - Recruitment of personnel resident in Spain or Portugal by a company not established in the same country, in order to **CB TELEWORK** from the country of residence
 - Exercise of the **professional activity SIMULTANEOUSLY** in Spain and Portugal.
- So:
- Living/ working in Spain / Portugal
- Working as an employed / self employed / teleworker



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WORKING SIMULTANEOUSLY: POSSIBILITIES

That means:

- Living in Spain and working simultaneously as an employed person in Spain and in Portugal
- Living in Spain and working simultaneously as an employed person in Spain and as a self-employed person in Portugal
- Living in Spain and working simultaneously as an employed person in Portugal and as a self-employed person in Spain
- Living in Spain and working simultaneously as a self-employed person in Spain and in Portugal
- Living in Portugal and working simultaneously as an employed person in Portugal and in Spain
- Living in Portugal and working simultaneously as an employed person in Portugal and as a self-employed person in Spain
- Living in Portugal and working simultaneously as self-employed persons in Portugal and as employed person in Spain
- Living in Portugal and working simultaneously as a self-employed person in Portugal and in Spain



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MAIN POINTS

- The contracting entity and the contracted worker will have to analyse:
 - Labour Legislation: Chosen by parties – In absence of choice *lex loci laboris*
 - Social Security Legislation: Member State of work
 - Tax Legislation: “*Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion in Income*”
- The procedures and administrative formalities.



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THIS PROCEDURE: AN EXAMPLE

PROCEDURE TO RECRUIT OF WORKERS LIVING IN PORTUGAL AND WORKING SIMULTANEOUSLY IN SPAIN AND PORTUGAL

1. Registration of the entity in the National Register of Collective Persons, (for being considered a foreign enterprise without a permanent establishment in Portugal)
2. Obtain the NIPC (identification Number as a firm) for being allowed to start its activity at Portugal
3. Registration of the firm at the Tax and Customs Authority
4. Registration of the entity at the Social Security,
5. Register the worker. And for these two requisites needs
 - a. A Registration form duly completed and signed
 - b. Individual employment contract signed between the company and the worker residing in Portugal.
 - c. Copy of the worker's Identity Card
 - d. Copy of the agreement concluded between the company and the representative of the company, by virtue of which the representative of the company is committed to fulfil the social security obligations corresponding to the company
6. 4. Making contributions to the Workmen's Compensation Fund
7. Taking out occupational accident insurance
8. Ensuring compliance with safety, hygiene and health regulations in the workplace, by the company and by the worker
9. Registering the employee in the Social Security and complying with all the contributory obligations inherent to this registration



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THE “USUAL” PROCEDURE

PROCEDURE TO FORMALISE THE RECRUITMENT OF A NATIONAL WORKER IN SPAIN AND PORTUGAL

- Contract the worker
- Reporting the labour authority
- Reporting the Social Security



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TELEWORK: ADDITIONAL PROBLEMS

- **TELEWORK: ADDITIONAL PROBLEMS**

- Telework legislation covering telework is still being developed
 - so workers' rights and obligations are still to be determined.
 - Some times, the established procedure is ignored
 - and recruitment and/or social security coverage procedures are chosen that are disadvantageous to the worker.
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- In most cases, neither the salary nor the expected duration of the employment relationship justifies the burdensome nature of the procedure.



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POSSIBLE SOLUTIONS

- **THE BEST SOLUTION:** A common regulation governing the procedures
- **OTHER:** Bilateral Conventions
- **Simplification of the procedures** by facilitating that the interested parties in the procedure, worker and company, relate only with the administration of the country in which the company is located and the administrations concerned carry out, telematically, the exchange of data and payments necessary.
- “Ad hoc” meetings and working groups
- Divulgate them among the possibly affected



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POSSIBLE SOLUTIONS: SPAIN AND PORTUGAL

Little progress at the “IBERIAN SUMMITS”

CROSS-BORDER WORKERS STATUTE.

The screenshot displays the EURES website interface. At the top, there is a navigation bar with the following links: INICIO, COÑÉCENOS, CONTACTOS CONSELLEIROS EURES, PREGUNTAS FRECUENTES, and XORNADAS E EVENTOS. The main content area features a banner with the text "Viver em Portugal. Trabalhar na Galiza" (Live in Portugal. Work in Galicia) and the EURES logo. Below the banner, the "Preguntas frecuentes" section is visible, with two tabs: "SON TRABALLADOR TRANSFRONTEIRIZO" (I am a cross-border worker) and "SON EMPREGADOR TRANSFRONTEIRIZO" (I am an employer). The "SON TRABALLADOR TRANSFRONTEIRIZO" tab is selected, showing a list of questions and answers under the heading "Vivo en Galicia e traballo en Portugal". The questions listed are:

- NÚMERO DE IDENTIFICACIÓN FISCAL
 - + Número de Identificación Fiscal
- SEGURIDADE SOCIAL
 - + Lexislación Aplicable
 - + Asistencia Sanitaria
 - + Enfermidade Común



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Galicia Norte Portugal EGTC

- **Meeting with the authorities**

- Labour Stakeholders, including social Security both in Spain and Portugal.
- Both ELA representatives have committed to present the report to the ELA institution and to both Spanish and Portuguese Governments in order to try to apply the solution proposed. So both central governments will be properly informed about this obstacle.

In this sense, the ELA implication in the project is of great value.



SEMINARIOS EURES | MOVILIDAD TRANSFRONTERIZA

26 de octubre de 2022

Santiago de Compostela, sede CEG Rúa do Vilar, 54

De 9:30 a 14:00 hora española



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Thank you!



Xosé Lago

Eurorregión Galicia – Norte Portugal

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