



Brussels, 16.5.2018  
SWD(2018) 197 final

**COMMISSION STAFF WORKING DOCUMENT**

**Evaluation of the Council Regulation (EC) 377/2004 on the creation of an immigration liaison officers network**

*Accompanying the document*

**Commission Proposal for a Regulation of the European Parliament and of the Council  
on the creation of a European network of immigration liaison officers (recast)**

{COM(2018) 303 final}

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## Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
AFIC	Africa-Frontex Intelligence Community
AFG	Anti-fraud group ( <i>see also FCG</i> )
ALO	Airline Liaison Officer
EASO	European Asylum Support Office
EBCGA	European Border and Coast Guards Agency
EBF	External Borders Fund
COM	European Commission
EMLO	European Migration Liaison Officer
EURLO	European Return Liaison Officer
EUROJUST	The European Union's Judicial Cooperation Unit
FCG	Fraud Control Group ( <i>see also AFG</i> )
FLEC	Foreign Law Enforcement Community
GILT	Ghana Immigration Liaison Team (Ghana)
ICE	Immigration Control Experts Team (Thailand)
ILO	Immigration Liaison Officer
ILOMN	Immigration Liaison Officers Managers Network
IOM	International Organisation on Migration
ISF	Internal Security Fund
LION	Liaison Immigration Officers Network (Nigeria)
LSC	Local Schengen Cooperation
NAIL	Nairobi Immigration Liaison Team (Kenya)
SAIL	South Africa Airline Immigration Liaison Officers (South Africa)
TAIL	Team Amman Immigration Liaison (Jordan)
TU-RAN	Turkey-Frontex Risk Analysis Network

## 1. INTRODUCTION

### Purpose and scope of evaluation

In its 2015 Communication on the EU Action Plan against Migrant Smuggling<sup>1</sup>, the Commission announced the evaluation in 2016, and a possible revision, of the Council Regulation (EC) 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network<sup>2</sup> (referred as ‘ILO Regulation’). Network that was set up under this legal instrument was considered as one component of a wider array of tools to gather and share relevant information aimed at preventing irregular migration, countering related criminal activities, facilitate return and manage legal migration.

The present assessment looks at the effectiveness, efficiency, relevance, coherence and EU added-value<sup>3</sup> of the ILO Regulation. It provides an updated overview of its application, identifying trends, gaps and potential areas for improvement. However, the evaluation of the ILO Regulation cannot be separated from the assessment of the work of the individual immigration liaison officers (referred as ILOs) and of ILO Networks, therefore the review takes also stock of developments within the network since the adoption of the present legal framework. The evaluation encompasses evidence and opinions from a range of sources and stakeholders. It also unveils the existing limitations in terms of available quantitative and qualitative evidence as regards deployment of ILOs, results and impact of ILO Networks activities. Finally, the evaluation includes also an analysis of application of related implementing acts<sup>45</sup>.

The evaluation findings constitute the main evidence that informed the development of the Commission's proposal on the creation of a European network of migration liaison officers, in line with the Commission Work Programme for 2018<sup>6</sup>.

### Context

In 2017, the migratory situation became more stable but remained challenging. With almost 205 000 irregular border crossings in 2017, there were overall 28% fewer arrivals than in 2014, the year before the crisis.<sup>4</sup> Yet the situation is fragile, and work on all migratory routes is continuing in 2018 to maintain the downward trend.

In this context, ensuring capacity to efficiently gather and share information on flows, routes, smuggling networks, their modus operandi and related crimes in the area of irregular migration is and remains one of the priorities set at European and national levels over the last years. Likewise, gaining robust understanding of third countries' capabilities and policies in the field of migration became essential in order to make the EU better equipped in designing relations with the priority countries of origin and transit and to

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<sup>1</sup> COM(2015) 285.

<sup>2</sup> OJ L 64, 2.3.2004, p. 1-4.

<sup>3</sup> Since the adoption in 2004, the ILO Regulation has never been evaluated. A limited review was undertaken by the Commission in 2006 to prepare an amendment of the Regulation (EU) NO 493/2011 of the European Parliament and of the Council of 5 April 2011.

<sup>4</sup> Commission Decision of 29 September 2005 on the format for the report on the activities of immigration liaison officers networks and on the situation in the host country in matters relating to illegal immigration (notified under document number C(2005) 1508.

<sup>5</sup> Commission Decision of 15 December 2005 laying down detailed rules for the implementation of Council Decision 2005/267/EC establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services C(2005) 5159.

<sup>6</sup> COM(2017) 650 final, Annex I

render return and readmission policy more effective as well as to efficiently manage legal migration.

The Council Conclusions adopted by the Justice and Home Affairs ministers on 10 March 2016<sup>7</sup> echoed the commitments of the Action Plan to advance concerted actions at EU and international levels against migrant smuggling and set out recommendations to Member States, the Commission and EU agencies, in particular to make an optimal use of the information systems and EU assets deployed to third countries to gather, cross-check and share migration related data and use them to predict flows and smuggling activities as well as to enhance effective and sustainable return of illegally staying third country nationals. The role of the liaison officers was also recognised in the context of legal migration and in particular in view of providing pre-departure support to third country nationals before migrating to the EU, as stipulated in the Integration Action Plan<sup>8</sup>. Indeed migrant smuggling, return and readmission as well as legal migration are key aspects of cooperation with third countries, as highlighted in the Communication on establishing Partnership Frameworks<sup>9</sup> with third countries under the European Agenda on Migration<sup>10</sup>.

The importance of having a common framework and clear mandates for staff posted in third countries to take action to counter migrant smuggling was further asserted by the Commission in its 2017 Communication on the Delivery of the European Agenda on Migration<sup>11</sup> which committed to establishing these through a revision of the ILO Regulation, thereby confirming one of priorities set out by the Commission in the EU Action Plan against Migrant Smuggling.

The objective of the current review of the ILO Regulation is to ensure better coordination and optimisation of the use of ILOs, including those deployed by the Commission and Union Agencies to third countries in order to more effectively respond to EU priorities in terms of preventing and combating irregular migration, facilitating the return, readmission and reintegration of irregular migrants, supporting management of legal migration and providing assistance to persons in need of international protection, for instance through resettlement.

### **Trends and figures**

The latest available data indicates clearly that the rate of irregular migration into the EU across the main routes of Central, Eastern and Western Mediterranean, as well as of Western Balkans, remains high despite a reduction observed in 2017<sup>12</sup>.

Table 1: Illegal border crossing along four main migratory routes in the period of 2014-2017

Route	2014	2015	2016	2017
Eastern Mediterranean	50 834	885 386	182 277	42 319
Central Mediterranean	170 664	153 946	181 376	118 962
Western Mediterranean/ Atlantic	7 519	7 878	10 661	23 564

<sup>7</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/03/10/council-conclusions-on-migrant-smuggling/pdf>

<sup>8</sup> COM(2016) 377.

<sup>9</sup> COM(2016) 385.

<sup>10</sup> COM(2015) 240.

<sup>11</sup> COM(2017) 558.

<sup>12</sup> ISAA annual Statistical Overview – 2017 Unit A4: DG HOME.

Western Balkans	43 357	764 038	130 261	12 179
<b>Total</b>	<b>272 374</b>	<b>1 811 248</b>	<b>504 575</b>	<b>197 024</b>

Source: Frontex data as of 2 February 2018

The reasons behind these high numbers include wars and geo-political instability in EU neighbouring countries, as well as poverty, lack of socio-economic development and global inequalities, constituting strong push factors for irregular migration towards the EU, in particular from Sub-Saharan African countries.

It is in this context of the rising migratory pressures that the utilisation of ILOs has increased dramatically to a point where almost 500 ILOs are currently deployed by Member States in third countries, together with 13 European Migration Liaison Officers (EMLOs)<sup>13</sup> and 3 EBCGA Liaison Officers<sup>14</sup>.

## 2. BACKGROUND TO THE INTERVENTION

### Description of the intervention and its objectives

The development of a common European migration policy within the EU area of freedom, security and justice is built upon, inter alia, the shared commitment among Member States to prevent and fight against irregular migration and well manage legal migration. Against this backdrop, the deployment of immigration liaison officers to third countries has been consistently recognised as one of the essential measures supporting a well-managed EU migration system.

The general objective of the ILO Regulation is indeed to contribute to the prevention and combating of irregular migration, to the return of irregular migrants and to the management of legal migration. The specific objectives are to enhance cooperation and exchange of information between ILOs deployed to third countries by encouraging the formation of local and regional networks (see intervention logic framework in Annex 4).

Despite ILOs being Member States national resources and part of a bilateral strategy of engagement with third countries, the key role they have in pre-frontiers risk analysis and in supporting investigations into migration related crimes is largely recognised from a perspective of security of the EU external borders. Moreover, ILOs have operational expertise, first-hand knowledge and direct contacts with the authorities of host third countries, which are highly relevant and useful to existing cooperation, information and policy development needs in the field of migration at the European level. These unique characteristics of ILOs triggered EU level action in this field.

The first steps to develop a European concept of liaison officers in countries of transit and origin were taken in 1998 within the Schengen Framework<sup>15</sup> and further developed along the lines of the conclusions approved by the JHA Councils in November 2000 and May 2001. The Commission's Communication on a "Common Policy on Illegal Immigration" of 15 November 2001<sup>16</sup> underlined the need for further developing networks of immigration and airline liaison officers (ALOs) by promoting closer co-

<sup>13</sup> EMLOs are currently deployed in Ethiopia, Jordan, Lebanon, Mali, Morocco, Niger, Nigeria, Pakistan, Senegal, Serbia, Sudan, Tunisia and Turkey

<sup>14</sup> EBCGA LO are currently deployed in Turkey, Serbia and Niger

<sup>15</sup> SCH/Comex (98) 59 rev = OJ L 239 of 22 September 2000, p. 308 and SCH/Comex 599° 7 Rev 2 = OJ L 239 of 22.9.2000 p. 411.

<sup>16</sup> COM(2001) 672 final.

operation, including permanent information exchange, common regular trainings and mutual support.

Building upon the Commission's Communication, a “Comprehensive Action Plan to combat illegal immigration and trafficking in human beings in the European Union”, adopted by the JHA Council on 28 February 2002<sup>17</sup>, fully endorsed this approach and highlighted the potential key role of ILO networks.

The European Council repeatedly highlighted the importance of ILO deployment and cooperation and tried to provide the necessary political impetus, notably in June 2002 including to the establishment of ILO networks in the context of the “Action Plan for the management of the external borders of the EU Member States”<sup>18</sup>. The policy guidance was complemented by more practical measures adopted by the JHA Council in November 2002<sup>19</sup>, including (1) implementation of a pilot ILO network project in the Western Balkans, (2) improvement of the co-operation between ILOs and the consular services of Member States, (3) seminars and workshops with a view to establish best practices, and (4) clarification of the different role of ILOs, other kind of liaison officers, document advisors and other staff dealing with immigration-related issues and (5) elaboration of a common manual for ILOs.

Whilst Member States have made efforts to enhance the co-operation among their ILOs posted in third countries, they have also encountered difficulties due to the lack of a common regulatory framework. Thus, when in 2003 the Greek Presidency set improving the work of ILO networks as one of its main priorities<sup>20</sup>, it eventually resulted in a legislative initiative aimed at creating a legal instrument formally establishing ILO networks in third countries<sup>21</sup>. On 19 February 2004, the Council adopted a Regulation on the creation of an immigration liaison officers network<sup>22</sup>. Article 8 of the Regulation required Member States to directly apply the Regulation in its entirety as of 5 January 2004.

The double legal basis for the adoption of the ILO Regulation in 2004 corresponds to Article 79(2)(c) on the EU policy in the area of illegal immigration and Article 74 on the administrative cooperation of the Treaty on the functioning of the European Union (TFEU)<sup>23</sup>. The ILO Regulation constitutes a development of the Schengen *acquis* and it applies therefore to Iceland, Norway, Switzerland and Liechtenstein. The United Kingdom and Ireland are taking part in this Regulation in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union and respectively Article 8(2) of the Council Decision 2000/365/EC of 29 May 2000<sup>24</sup> and Article 6(2) of the Council Decision 2002/192/EC of 28 February 2002<sup>25</sup>. It applies to Denmark in accordance with Article 4 of Protocol 22. ILO Regulation is also binding and

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<sup>17</sup> Council doc. 6621/02 REV 1 LIMITE JAI 30 FRONT 19 MIGR 10 VISA 29.

<sup>18</sup> Council doc. 10019/02 FRONT 58 COMIX 398.

<sup>19</sup> Council doc. 14464/02 CIREFI 69 FRONT 134 COMIX 659.

<sup>20</sup> <http://www.consilium.europa.eu/media/20847/76279.pdf>

<sup>21</sup> OJ C 140, 14.6.2003, p.12. (2003/C 140/10).

<sup>22</sup> OJ L 64, 2.302004, p.1.

<sup>23</sup> Former Article 63(3)(b) and Article 66 of the Treaty establishing the European Community

<sup>24</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*, OJ L 131, 1.6.2000, p.43.

<sup>25</sup> Council Decision 2002/192/EC of 28 February 2002 concerning request of Ireland to take part in some of the provisions of the Schengen *acquis*, OJ L 64, 7.3.2002, p.20.

applicable in EU Member States who are not members of Schengen yet, notably Romania, Bulgaria, Cyprus and Croatia as of the date of their accession to the EU.

First experiences with implementation of the ILO Regulation were reported in a Commission non-paper on the further development of ILO networks in third countries in October 2006. While highlighting ILO networks' contribution to the management of migratory flows towards the EU, the paper pointed out to shortcomings in relation to the regular update on the development and operation of ILOs' networks and to the lack of a clear framework for planning, executing and co-ordinating the development and operation of the networks. It also pointed out to the limited developments in establishment of formal ILO networks in the main source and transit countries, despite a broad interpretation of the definition of ILOs, as well as of joint activities provided by the legislative framework.

Subsequent discussions with Member States resulted in the Commission proposing an amendment to the ILO Regulation in July 2009<sup>26</sup>. The main changes encompassed (1) promoting secure web-based Information and Coordination Network for Member States' Migration Management Services (ICONet)<sup>27</sup> for exchange of information and practical experiences among ILOs and notification of their deployment, (2) defining cooperation between FRONTEX and ILO networks, (3) introducing provisions for any Member States, other than the one holding or acting as the Presidency, to take the initiative for holding meetings of ILOs, (4) simplifying reporting obligations established by the Regulation in relation to activities of ILO networks in specific regions and/or countries of particular interest to the European Union, as well as on the situation in those regions and/or countries, in matters relating to illegal immigration, and (5) confirming that the creation and operation of ILO networks might benefit from Community funds. The amending Council Regulation (EU) No 493/2001 was adopted by the European Parliament and the Council on 5 April 2011<sup>28</sup>.

### **Definition and tasks of ILO**

The ILO Regulation defines immigration liaison officers as representatives of EU Member States, deployed to third countries and tasked with developing and maintaining contacts with host countries' authorities with an aim of preventing and combating illegal immigration; rendering assistance to the return of irregular migrants; and contributing to the management of legal migration. The Regulation opted for an inclusive approach by considering all liaison officers dealing with migration issues as a part of their duties as being ILOs, notwithstanding their core mandates or sending authorities. However the evaluation evidence clearly shows that neither the ILOs themselves nor their managers in capitals, (so called 'back office'), indicate at present that 'legal migration' is at present a significant aspect of their work. Indeed the evaluation provided evidence that only 2% of ILOs' operational activity is focused on resettlement. Similarly, only a small percentage of ILO deployed to third countries, as illustrated in the Table 2 below, were actively executing functions related to facilitation of return of irregular migrants.

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<sup>26</sup> COM(2009) 322 final.

<sup>27</sup> Council Decision 2005/267/EC of 16 March 2005 establishing secure web-based Information and Coordination Network for member States' Migration management for the exchange of strategic, tactical and operational information concerning illegal migratory movements, supplemented by the Commission Decision of 15 December 2005 laying down detailed rules for the implementation of that Council Decision C(2005) 5169 final.

<sup>28</sup> OJ L 141/13, 27.05.2011, p. 13.



Table 2 – Time spent by ILOs on various activities

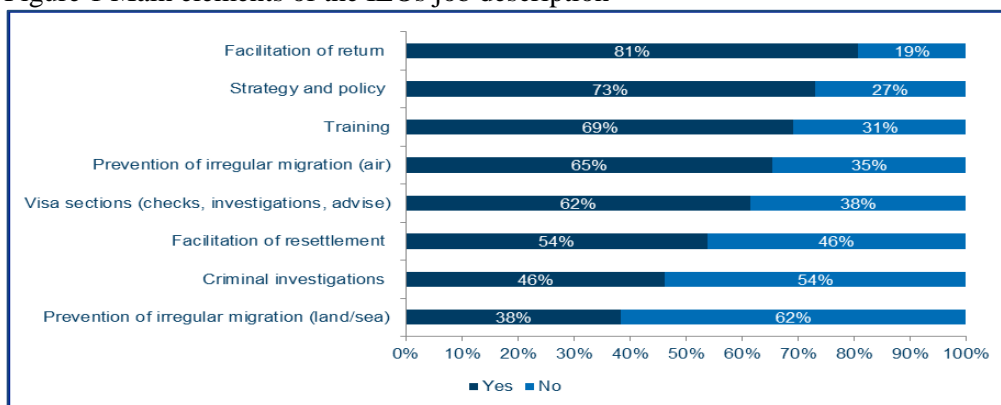
	% of time spent on the activity
Preventing facilitation at air borders	19%
Criminal investigations	17%
Work at visa sections	14%
Training	10%
Facilitating return	9%
Preventing facilitation at land and sea-borders	4%
Resettlement	2%
Other	15%
<b>Total</b>	<b>100%</b>

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

ILOs are usually deployed, for a reasonable time period determined by the sending Member State, to the consular offices of Member States in third countries but could also be deployed to another Member State's authority in third country, the competent authorities of the third countries concerned, as well as to international organisations.

As a consequence, ILOs constitute a wide group of actors with different mandates and tasks (see figure 1). Just under half of the ILOs work exclusively on migration issues (44% in the ILO survey), while 56% have migration as part of their duties. A large majority of the ILOs have a law enforcement background, compared with those having civil background<sup>29</sup>. More than half of the ILOs have systematic or punctual airport access (46% of the respondents in the ILO survey have systematic and further 12% punctual airport access). However, of those having an access, the actual time spent at the airport differs widely.

Figure 1 Main elements of the ILOs job description



Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

As a consequence of the increasing sophistication of Member States' response to tackling irregular migration over the recent years, the tasks of ILOs have been subject to gradual evolution. The tasks of typical ALOs evolved from checking documents at the entrance of the aircraft of their national airline carrier (as 'first line of defence' of the European borders) to assisting (advising) with check-in procedures at the departure area of the airport (beyond the national airline carrier), providing training and other forms of support

<sup>29</sup> 74% of the ILO respondents to the ILO survey have a police background, while 26% has a civil background. However, this number may be influenced by the relatively high number of respondents from Germany, Spain and France, where most ILOs have a police background.

and advice to various host country authorities in and outside the airports, and developing intelligence relating to irregular migration that forms the basis of criminal investigations and prosecutions.

While not all Member States presently deploy ILOs<sup>30</sup>, the biggest number of national ILO are deployed by Spain, France, the United Kingdom, Germany and Netherland (126, 111, 59, 47, 25 respectively<sup>31</sup>).

### **Baseline on ILO Network - Development of ILO Network**

At the time of the entry into force of the existing Regulation in 2004, ILOs had, as now, different roles, responsibilities and different labels attached to their functions. Thus rather than “creating ILO networks”, the ILO Regulation was designed in practice to strengthen an existing situation and encourage more effective pathways for information exchange. Indeed, there were some formal networks that had been created and were already functioning well before the adoption of the Regulation in 2004, e.g. ICE in Thailand (1999), SAIL in South Africa (2001) and GILT in Ghana (2003)<sup>32</sup>.

The networks of ILOs that had developed in third countries were not then confined solely to EU or Schengen countries, which remains the case today too. The evaluation provided evidence that ILOs regard operational and strategic engagement with non-EU and/or non-Schengen counterparts as highly beneficial to all parties in terms of fulfilling their objectives. Among the ILO respondents to the survey, approximately two-thirds indicated that their respective networks include non-European partners, of which Canada, the United States, Australia and New Zealand are most frequently mentioned<sup>33</sup>. This more ‘globalised’ approach has been reflected at senior level by a number of countries who participate alongside other key EU Member States in a global ILO grouping known as the ILO Manager Network (ILOMN)<sup>34</sup>.

EU Member States and associated countries started deploying ILOs to non-EU European countries from the late 1980s and early 1990s. In 2002 the Danish Presidency presented a report on ILOs<sup>35</sup> confirming that in most of the third countries there existed well-functioning, though often informal, communities or networks among the liaison officers. The decision to use a Regulation to encourage a movement away from informal networks of liaison officers towards a more formal approach was seen as a progressive step towards enhanced cooperation, closer teamwork and a better pooling of resources. At the time of adoption, approximately 129 ILOs were deployed to third countries, with France and Spain having the largest networks (25 ILOs each), followed by Germany (12 ILOs) and the Netherlands (11 ILOs). Since then, the number of officers has grown to an

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<sup>30</sup> 17 EU Member States as well as Switzerland and Norway deployed ILOs as for January 2018.

<sup>31</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.

<sup>32</sup> Immigration Control and Enforcement (ICE)/ South Africa Immigration Liaison (SAIL) Ghana Immigration Liaison Team (GILT).

<sup>33</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.

<sup>34</sup> ILOMN consists currently of back offices from Germany, Austria, Finland, The United Kingdom, Norway, Switzerland, New Zealand, Australia, United States and Canada.

<sup>35</sup> Council doc. 13271/02 LIMITE CIREFI 63 FRONT 119 COMIX 585 and 14464/02 CIREFI 69 FRONT 134 COMIX 659.

estimated in the 492 at present, posted in 105 countries<sup>36</sup>, which reflect a growth of over 250% as shown below.

Table 3. Growth in ILOs networks (2004-2018)

	2004	2010	2018 <sup>37</sup>
Total no. deployed ILOs	129*	232*	492**
% growth (compared to 2004)	-	80%	250%

Source: \* Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

\*\* Mapping of deployment carried out by the Commission in 2018

Finally, since the adoption of the ILO Regulation, new platforms and forums involving migration stakeholders have been set-up in third countries, often with the same circle of consular staff and liaison officers present. In addition to the anti-fraud groups, which in many third countries serve as the de facto ILO network umbrella, other fora include: Local Schengen Cooperation (LSC), Foreign Law Enforcement Community (FLEC), EU Cooperation Platforms on Migrant Smuggling<sup>38</sup>, and Joint Readmission Committees. This proliferation of potential meetings and forums aimed at sharing information, discussing emerging trends and modus operandi and involving ILOs, makes a fundamental difference in the present situation compared to 2004, when the Regulation was adopted.

### 3. METHOD

#### Short description of methodology

The methodological approach for the present assessment of the ILO Regulation strove to be robust by gathering and triangulating information from a variety of sources, including evidence from an external evaluation study and consultations with key stakeholders. However, given limited availability of open source documents related to the ILO Regulation and their often confidential nature, e.g. Presidency reports and documents associated to the work of the Expert Group of Member States on ILO Networks set up and led by the Commission, the major components of the research were primarily constituted through field work. A participatory approach was applied allowing for proactive and continuous involvement of those directly affected by the Regulation, notably the ILOs deployed to third countries and their managers in national administrations of Member States.

The external evaluation was carried out in the period of June 2016 – August 2017 by ECORYS NL. The research team conducted workshops in 14 third countries<sup>39</sup> ensuring that the sample represented locations of high and low levels of ILO deployment, as well as countries that are either an important source of irregular migration, airline hub or land-and sea transit countries. The selected countries also varied in their levels of cooperation with the EU in matters of illegal immigration. At each location, additional face-to-face

<sup>36</sup> The mapping of the ILO deployment carried out during the external evaluation resulted with a total number of 581 ILOs deployed in 88 third countries in 2016. Subsequent verification of this data by the Commission and in cooperation with Member States allowed for correcting and updating the mapping of deployment as for the cutting date of 1 April 2018.

<sup>37</sup> Figure as of March 2018 which includes a correction from the UK that removed 81 locally employed staff from their original figure of 137 provided to the external evaluators, as well as the end of a small number of other ILO deployments by Member States that were not replaced.

<sup>38</sup> Launched in July 2016 in Pakistan, in October 2016 in Nigeria and in February 2018 in Tunisia.

<sup>39</sup> Pakistan, Jordan, Egypt, Nigeria, Ethiopia, South Africa, Albania (Western Balkans region), Morocco, Senegal, Ghana, Turkey, Thailand, China, and Russia.

interviews were conducted with individual ILOs (prior to or after the focus group) as well as with relevant host country stakeholders, including competent authorities, local police, airlines, international organisations (IOM, UNHCR) and EU Delegations. A total of 62 interviews were conducted during the field missions followed up by two targeted surveys of ILOs and ILO managers as well as in-depth interviews with representatives of the European Commission, European External Action Service and EU Agencies (EBCGA and Europol).

Member States' views on the ILO Regulation were gathered in the framework of the external evaluation study and in particular via in-depth interviews and an 'ILO back office panel' composed of France, Germany, the Netherlands, Spain and the United Kingdom. They were also informed of activities linked to the evaluation during the meetings of the Expert Group of Member States on ILO Networks.

### **Methodological challenges: limitations and robustness of findings**

While the data collection process was designed and implemented in a robust way, constraints related to the availability of data, representativeness of the research sample and analysis of attribution have to be highlighted.

A major challenge throughout the evaluation was the limited availability of quantitative data relating to activities of ILO networks, which in turn limited the ability to carry out objective comparative analysis. This has meant that the evaluation itself relies significantly upon qualitative information deriving from the focus groups with ILOs and interviews with their managers in Member States and other relevant stakeholders, which has also shown some shortcoming as to the viability and completeness of information provided.

While the geographical and functional representativeness of ILOs consulted is broadly consistent with the overall distribution of their population by sending State, the overall sample was small. A total of 142 ILO survey responses were received, representing about 26% of the ILOs posted in third countries and covering 18 Member States<sup>40</sup>. 83% of the ILO survey respondents represented France (26 responses), Spain (20 responses), Germany (14 responses), Austria and the Netherlands (12 responses each), Norway (11 responses) and UK (8 responses), who are also the countries deploying the highest number of ILOs. However, the above number of responses constitutes only 23% of French, 15% of Spanish, 29% of German and 10% in case of UK population of ILOs, however for Austria and the Netherlands it represented 57% and 48% respectively. All together 20 EU Member States plus Norway and Switzerland were reached during the evaluation.

Another challenge was linked to determining the extent to which the reality of ILO deployments, the existence of ILO networks and the nature of cooperation and information exchange among ILOs in a given host country could have been attributed to the Regulation. Due to the limited comparability of the bi-annual Presidency reports, which are de facto the only mechanism of reporting on ILO networks, it was difficult to define a credible approximation as to what would have occurred in the absence of the Regulation. Additionally, historic data on the deployment were not provided by all Member States, which impeded comprehensiveness of the analysis of the developments related to the ILO Networks since the adoption of the Regulation.

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<sup>40</sup> ILOs from Belgium, Croatia, Czech Republic, Denmark, Estonia, Portugal and Slovenia were not represented in the ILO survey, other EU Member States do not deploy ILOs.

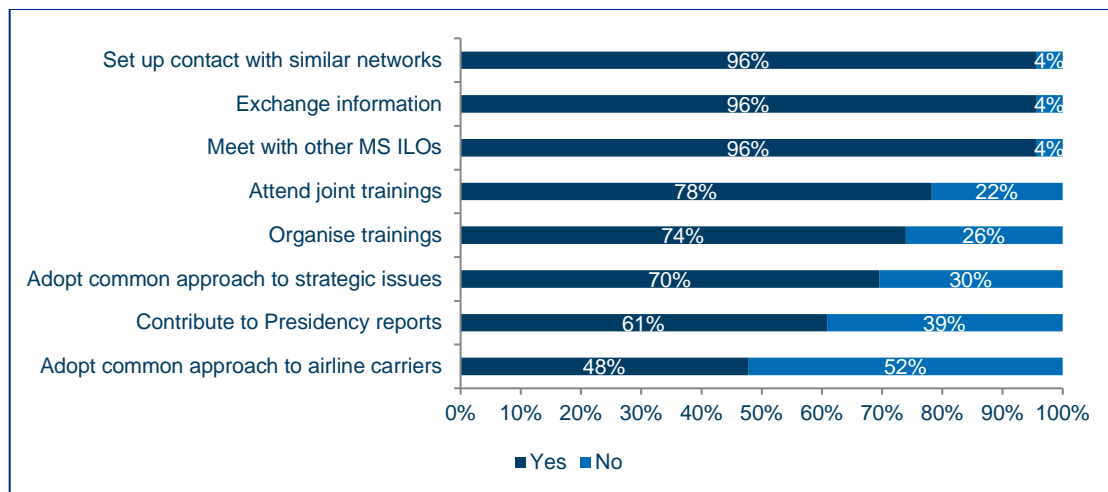
A number of mitigations were undertaken in the attempt to overcome the challenges mentioned above, including repeated consultation with Member States through Expert Group of Member States on ILO Networks meetings, as well as widening outreach to ILOs. However, despite such efforts, the evidence base upon which judgments can be made concerning the effectiveness, efficiency and added value of the ILO Regulation, remains weak. This also includes challenges in establishing a robust baseline for the evaluation of the ILO Regulation and comparable data going back in time to adoption and throughout implementation.

#### 4. IMPLEMENTATION / STATE OF PLAY

##### Description of the current situation

The provisions of the ILO Regulation are directly applicable and seem largely to be complied with by Member States. However, the nature of the Regulation and limited tangibility of its components constrains the unequivocal assessment of the quality and completeness of its implementation, in particular the extent to which the specific ILOs' networking, as defined by the Articles 2 and 4, has been taking place. As concluded by the evaluation, the majority of Member States have aligned the national definitions of ILOs to the definition of the Article 1(1) and instructed their ILOs to collect and share information within the scope of their respective mandates as well as to ensure networking with relevant stakeholders. Indeed, in most locations where there are more than 3 ILO present, ILOs have formed networks of some description. However, in the majority of cases these networks have not been "formalised" in the sense of either being given a name, having a formal mission statement, agreeing to rules of procedure over meetings and accounting for the agreed actions. Only few isolated examples of highly formalised networks that meet some or all of these characteristics were identified.

Figure 2 Specific activities on which Back Offices instruct their respective ILOs to collaborate with other ILOs posted in the same country



Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

In contrast, not all Member States fully applied, nor did they take full advantage of the provisions of the Regulation to inform each other, and the Commission and the Council, regarding current and intended deployments as foreseen in the Article 3 of the Regulation. Such information has been only occasionally shared through the institutional channels or through ICONet, the latter, however, as reported in the evaluation, was used only by 3 Member States. The annual mapping of the ILO deployments launched by the

Commission in 2015, 2016 and most recently in 2018 in the framework of the Expert Group of Member States on ILO Networks allowed for capturing some recent changes in the ILO presence in third countries but may not be fully exhaustive.

Non-compliance was also observed in relation to Article 4 (3) and 6 (1) stipulating that the Member State holding Presidency of the Council should organise ILO network meetings and draw up by the end of each semester, a report to the European Parliament, the Council and the Commission on the activities of immigration liaison officers networks in specific countries and/or regions of particular interest to the Union as well as on the situation in those countries and/or regions in matters relating to illegal immigration. An option of engaging another Member States as an acting Presidency in case of lack of presence in the country or the region concerned was not widely applied. While all, but one, Member State submitted reports on the activities of ILOs as required by Article 6(1)<sup>41</sup>, many of them were delivered late (up to two years following the Presidency) and some did not include responses to Part I questions.

The nature of the reports presented by Presidencies (covering one country or region, and thus summarising the activities of just one network at a time, rather than all ILOs Networks) also limited the ability of the Commission to provide factual summaries and, where appropriate, recommendations to the European Parliament and the Council on the development of the immigration liaison officers networks, on an annual basis, as stipulated in Article 6(4).

## **5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS**

### **Relevance**

At the time of adoption of the ILO Regulation, Member States felt that more operational cooperation and coordination, including a closer integration between tasks performed by ILOs deployed to third countries was needed to effectively address common threats on the external border of the Schengen area. This need is still relevant today, arguably more so given the increasing migration pressure at the European borders and the crisis experienced most recently in 2015, when Member States reported more than 1 820 000 detections of illegal border crossing along the external borders<sup>42</sup>. The policy response, set out in the European Agenda on Migration, outlined the need to take a comprehensive approach and ensure that all the tools available to the Union and its Member States were fully effective. Thus, with the core objectives of the ILO Regulation being to contribute to the prevention and combating of irregular migration, facilitating return and supporting legal migration, by promoting networking, cooperation and exchange of information between of ILOs deployed to third countries, the role of ILOs in terms of fostering a joint European response remains highly relevant. Indeed the liaison component of their work can also significantly contribute to both building bilateral partnerships with third countries' authorities and supporting implementation of EU external migration policy priorities.

The conclusion on the relevance of deploying ILOs to third countries is widely shared by all stakeholders. By virtue of being located in third countries and cooperating with the authorities there, ILOs and their networks play unique roles in the European toolbox of measures used to pursue a common migration policy. ILOs are ideally positioned and have the capability to contribute to forecasting and risk analysis which, in the context of

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<sup>41</sup> Based on the reporting format specified in the Commission Decision 2005/687/EC.

<sup>42</sup> [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annula\\_Risk\\_Analysis\\_2016.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf)

rapidly changing trends and flows of migrants, is critical to understanding of the context within which irregular migration occurs. They provide insight into sources of information such as social media that can spread misinformation and thus fuel peoples' movements. Encouraged by the current Regulation for creating networks, when posted in the same country, ILOs share of factual and on-the-ground knowledge among themselves.

Member States have long recognised the relevance and benefits of deploying specialist ILOs to third countries for establishing partnerships, supporting collaborative working with international actors to more effectively manage the impacts caused through irregular migration pressures from source and transit countries. Indeed the original regulation was a response itself to the rapid expansion by Member States of their liaison officer footprint and intended to ensure that as they did so, the ILO work in networks and share information. Since 2004 Member States have continued to expand their networks as well as widen the sophistication of their officers' responses. The almost 500 ILOs that are now deployed across over 100 countries come from a range of backgrounds, both law enforcement and immigration. They have responsibilities that include disrupting organised crime networks; working with the aviation sector to ensure passengers board flights with correct travel documents; supporting anti-fraud measures to secure the visa issuance process; facilitating returns; and building the capacity of third countries to better manage and counter their own irregular migration pressures. Increasingly too ILOs are being asked to support Member States' own resettlement programmes as well as become involved in integration of migrants entering the EU on legal migration routes. The more than fourfold increase in ILOs since 2004 is a significant indicator of how important and relevant Member States continue to view the deployment of ILOs.

### **Coherence**

As explicitly stated in the European Agenda on Migration<sup>43</sup>, ILO Networks are a tool that can help to enhance cooperation with third countries of origin and transit and has been seen as important element of implementation of 'migration compacts' established by the Partnership Framework<sup>44</sup>. The European integrated border management (IBM) based on four-tier access control model<sup>45</sup> presumes contribution from networks of ILOs. Similarly, ILOs are to feed into situational awareness of the border situation, pre-frontiers intelligence picture and risk analysis in line with European Border Surveillance System (Eurosur)<sup>46</sup>. The extent to which the potential synergies and complementarities between ILO networks and other EU measures are actually maximised depends on the implementation of the latter and the level of ILOs involvement in the execution of those.

Likewise, there are clear potential complementarities and synergies with new European liaison officers' functions that have been established since the adoption of the Regulation (see table 4 below). A network of European Migration Liaison Officers (EMLOs) was set up following the Council Conclusion of April 2015<sup>47</sup> and subsequent COM Communication on the European Agenda on Migration. EMLOs, who primarily

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<sup>43</sup> COM(2015) 240.

<sup>44</sup> COM(2016) 385.

<sup>45</sup> Regulation (EU) No 2016/1624 of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/299 of the European Parliament and of the Council and repealing Regulation (EC) No 836/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1-76).

<sup>46</sup> Regulation (EU) No 1052/2016 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) OJ L 295, 6.11.2013, p.11-26.

<sup>47</sup> <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23/special-euco-statement/pdf>

represent the interests of the Union, have so far been deployed to the EU Delegations in 13 key third countries. To avoid the duplication of tasks with ILOs and improve networks' effectiveness, EMLOs were tasked with coordination of ILO networks by organising regular meetings where necessary, as well as supporting the ILOs in the contacts with host authorities by utilising its position as an Union representative. When questioned in the context of this evaluation, the EMLOs pointed out the important role they have been already playing in bringing ILOs together in the regular ILO network meetings and facilitating access to information thanks to their leverage as representatives of EU-28, in particular in those countries where ILOs do not have an easy access to host authorities.

Since 2016, following the entry into force of the new legal basis<sup>48</sup>, the EBCG Agency commenced deployment of liaison officers to third countries with a mandate to play an operational and connecting role in the EBCGA contacts with host authorities, and in some locations in particular, to facilitate agreements and implementation of EBCGA Memoranda of Understanding (MoUs) with third countries. EBCGA liaison officers are also tasked with contributing to the work of the Agency, notably in the fields of risk analysis and return. Pursuant to Article 55(2) of the EBCG Regulation, priority for the deployment of EBCGA liaison officers has been given to those third countries which, on the basis of a risk analysis, constitute a country of origin or transit regarding illegal immigration. To this end, the first three liaison officers were posted in Turkey (April 2016), Niger (August 2017) and the Western Balkans (September 2017) and seven more positions are to be established by the end of 2020. Where deployed, EBCGA liaison officers have formed part of the local ILO Networks.

Table 4 below, provides comparison of the main characteristics of ILOs deployed by member States and EU to third countries.

Table 4 Comparison of ILOs with similar EU instruments<sup>49</sup>

	Ownership	Scope	Responsibilities
MS ILOs	Bilateral Posted in MS diplomatic missions	Represent police cooperation and migration bilateral interests	Establish and maintain direct contacts with competent national and regional authorities Gather knowledge and information Prevent of irregular entries to its sending state and detect false documents
EMLOs	Multilateral Posted in EU Delegations	Represent general EU migration interests	Establish and maintain direct contacts with competent national and regional authorities for cooperation with EU on migration Provide analysis and recommendations Coordinate and support ILOs Network Support implementation of EU return policy
EBCGA LOs	Bilateral / Multilateral Posted in EU Delegations	Represents EBCGA interests Cooperation with third countries at EU external borders	Develop and maintain operational bilateral cooperation with host country Draft and elaborate field assessments; Support implementation of EBCGA projects Support ILOs Network

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

<sup>48</sup> Regulation (EU) No 2016/1624 of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/299 of the European Parliament and of the Council and repealing Regulation (EC) No 836/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1-76).

<sup>49</sup> Detailed analysis of typologies and numbers of ILOs deployed by Member States and EU are presented contained in Annex 4.



As concluded by the evaluation, the existing ILO networks can be complemented and benefit from the new European liaison functions and good practices of close cooperation between ILO, EMLO and EBCGA LO have been already identified, e.g. in Niger, where all liaison officers cooperate closely and share information in the framework of the Platform on Information Exchange on irregular migration and migrant smuggling. The ILO Regulation and activities of ILO networks are coherent with EU migration policy priorities and EU-funded interventions aiming to enhance migration management, to reduce irregular migration flows, migrant smuggling and trafficking in human beings and to promote integrated border management.

### **Effectiveness**

The ILO Regulation is just one piece of a wider array of measures in the area of migration. As such, its implementation has had only a partial and indirect impact on the global objectives of reduction of irregular migrant flows and related criminality as well as increasing effective returns and management of legal migration. However, while assessing the effectiveness of the ILO Regulation, the external evaluation considered the extent to which the specific and operational objectives stipulated by the legal framework have been fulfilled since its adoption in 2004. These include in particular effectiveness of ILO Regulation in triggering deployment of and cooperation of ILOs in location and vis-à-vis host country stakeholders, gathering and exchange of operational and strategic information, supporting return as well as coordination of resources at the European level.

### Role of the ILO Regulation in relation to the liaison officers' deployment

Member States began deploying liaison officers prior to the adoption of the ILO Regulation and as concluded by the external evaluation, the new legal instrument had no apparent impact on Member States decision-making process on future deployment plans. In fact, the underlying priorities of Member States' remained influenced more by developments in migration trends, national strategic priorities and financial capabilities. ILOs were deployed to third countries characterized by particularly large or specific migratory pressure and/or where large volumes of visa applications are processed by sending Member States. Non-functioning mechanisms for mutual notification of deployment of ILOs hindered further the opportunity of EU wide coordination in this respect. As a result, there are third countries with ILOs from more than 15 Member States are: China, Russia, Turkey, India, Nigeria, Thailand, Pakistan, Jordan<sup>50</sup>.

In Article 5(1), the Regulation provided a possibility for Member States to agree bilaterally or multilaterally on the common use of the ILOs deployed to the same location. However, there are only few examples on how Member States exploited this opportunity, including the deployments within the network of Nordic law enforcement liaison officers, composed of Finland, Iceland, Denmark, Sweden and Norway and addressing migration related issues in a wider context of collaboration in combatting organised and transnational crime. The shorter-term joint deployments under External Border Fund (EBF) 2007-2013<sup>51</sup> have enabled a more cost-effective way of widening presence in third countries, in particular for Members States with limited or no ILO network. An EBF allocation of little over 8M EUR co-financed posting a total 32

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<sup>50</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.

<sup>51</sup> Decision No 574/2007/EC, OJ L144, 6.6.2007, p. 22.

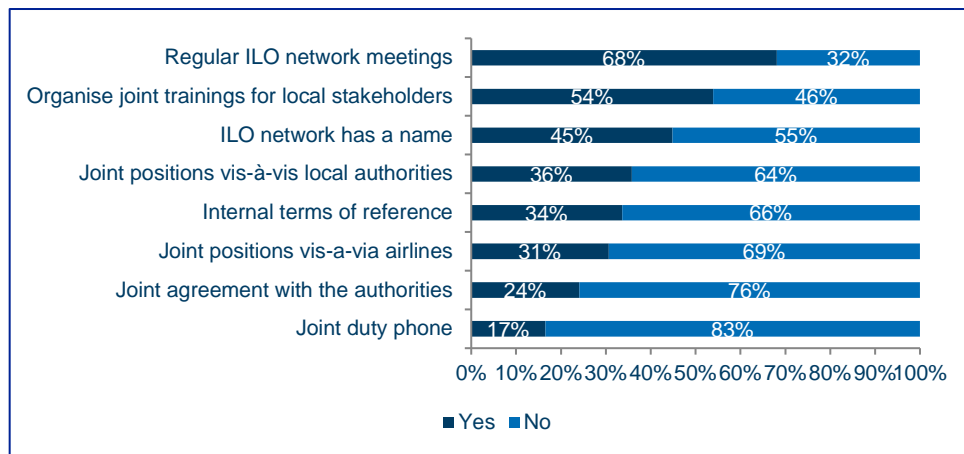
common ILOs (i.e. shared between at least two Member States), with dedicated Community Actions launched in 2007 (7 ILOs deployed), 2008 (7 ILOs deployed), 2011 (7 ILOs deployed) and 2012 (11 ILOs deployed). However, short duration of the projects (between 18-24 months), difficulties in recognition of multiple accreditation by the host authorities and lack of specific provisions on communication and information sharing beyond partnering countries hindered the possible benefits of such joint deployments.

Furthermore, sharing certain tasks among ILOs as stipulated in Article 5(2) has been observed in locations where ILOs work predominantly at airports. In such situations, ILOs tend to rotate schedule for airport duties. Only in a handful locations those arrangements have been formalised, e.g. in case of ICE or SAIL networks, while in general they are based on a mutual understanding among ILOs.

Role of the ILO Regulation in creating and strengthening local ILO Networks

The establishment of the networks stipulated by the ILO Regulation was a progressive step towards enhanced cooperation, closer team work and a better pooling of resources within the same third country location. However, the provision leaves much room for interpretation as to how ILOs should organise their network activities, such as what level of joint activities and formalisation should be sought. As reported in the ILO survey and presented in the figure 3 below, ILOs deployed to the same host country frequently cooperate and exchange information in a ‘natural way’, resulting in the emergence of an informal ‘ILO network’.

Figure 3. ILO activities and formalisation of the networks



Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

At the same time, only two thirds of interviewed ILOs reported to be part of an ILO network. Importantly, the other third of ILOs largely consisted of law enforcement liaison officers for whom migration related tasks are only a fraction of their duties and who reportedly do not consider themselves as ILOs. That points to the currently observed lack of clarity over the definition of ILO, which as stipulated by the Article 1 of the Regulation on the one hand embraces liaison officers if they work on migration, while on the other is not explicit vis-à-vis those deployed as police attachés and having certain functions related to migration.

As evidenced by the external evaluation, the intensity of cooperation and information exchange and the level of formality of the networks vary per location depending on several factors such as size and homogeneity of the liaison community and the situation

of the host country (see figure 8 in Annex 4). Such cooperation tends to be stronger where ILOs' tasks are framed by similar core objectives and mandates, such as in case of the airline liaison officers, whose roles are to monitor flights departing to the EU and prevent boarding of third country nationals suspected of being facilitated to the EU illegally. As seen from the examples in South Africa, Kenya, Ghana, Thailand or China, ILOs working at the airport form semi-formalised, co-located teams with a rotating schedule or arrangement to ensure ILO presence at the boarding gates of Schengen directed flights. Outside airports, the ILO community is characterised by a wider diversity of tasks and background, and even if this is per se no obstacle to cooperation, the more alike mandates are, the stronger the collaboration that exists between individual ILOs posted in the same location. ILOs interviewed in the context of the study admitted that personal factors, past working experiences or joint connections in the world-wide ILOs network might define to what extent ILOs would trust each other and would be willing to share information.

Few cases of regular and formalised interactions within the ILO networks were identified through the evaluation, e.g. in Pretoria, Bangkok, Beijing and Nairobi where ILO meetings are scheduled in the airport specific context. Scattered evidence points to meetings being called upon in third countries subjected to the biannual Presidency report, by Member States holding the Presidency of the Council. Despite the renewed interest in ILO networks work prompted by the migratory crisis and despite the existing legal obligation, not all past Presidencies organised those meetings. There are also a few locations in which ILO network meetings have been organised on initiative of the EU Delegations, e.g. in Ankara and Rabat. In countries where ILO network meetings do not occur regularly, ILOs reported on the higher importance of the Anti-Fraud Group/Fraud Control Group<sup>52</sup> (64% ILOs surveyed confirm this being relevant), and to some lesser extent of the Local Schengen Committee meetings (46% ILOs surveyed). However, still only 29% ILOs declared regular participation in those fora.

#### Role of the ILO Regulation in stipulating contact with local stakeholders

While maintaining contacts with local stakeholders, ILOs turn to competent authorities of the host third country, such as immigration, border control, airport and law enforcement authorities as well as airline carriers, international organisations (e.g. UNHCR, UNODC, IOM or Interpol) and local NGOs, and finally consular staff of Member States' visa sections as well as EU Delegations. Contacts with host country authorities are developed and maintained in overwhelming number of cases on the individual ILO level, i.e. de facto on bilateral basis between the sending Member State and the hosting third country, rather than on the ILO network level. This is both a consequence and a demonstration of the limited extent to which cooperation as a network can be productive, in particular in third countries with a difficult political environment. Only in third countries with better political alignment with Member States and where authorities are invited to ILO meetings, acting as a network presents an added value and impact positively on its maturity.

The organisation of joint information sessions and training courses for airlines, handling agents, security checking companies, consular departments, and to a lesser extent, immigration authorities and border agencies in the host third country is a key component

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<sup>52</sup> Anti-Fraud Group/Fraud Control Group meetings are an informal platform of ILOs, consular staff, general police and security attaches and dedicated to discuss cases of visa fraud and modus operandi and trends in the field of irregular migration, e.g. falsification of documents and travel routes.

of ILO work and often used as leverage and for reaching out to the authorities and building their goodwill. The training typically covers topics such as document fraud prevention, impostor profiling and entry requirements.

As regards cooperation with EU Delegations mentioned already above, there is only limited evidence of third country locations where EU Delegations took an active role in animating ILO networks, by calling meetings on behalf of the Member State holding the EU Presidency. This should not come as a surprise given that under the current Regulation the coordination role of the ILO networks is given to the Member States holding the Presidency. ILOs' potential to contribute to improving EU Delegation's awareness and capacities to deal with migration issues could be however exploited further, in view of strengthening policy dialogue and effective operational cooperation with local authorities. Indeed, interactions between EU Delegations and ILOs has been developing recently but primarily in third countries, with whom Union engages directly on migration issues, thus key countries of origin and transit where EMLOs have been deployed.

#### Role of the ILO Regulation in relation to information gathering and sharing

The ILO Regulation adopted in 2004 was not prescriptive regarding ways in which operational and strategic information should be gathered and shared within local ILO networks. However, following the establishment of the ICONet, it was deemed necessary to provide ILOs with a structured and secure mean of communication. The 2011 amendment to the ILO Regulation included provisions for ICONet to become a platform where relevant information could be made available for all ILOs. However, despite being stipulated by the Regulation, hardly any ILOs consulted during the external evaluation had heard about ICONet and only a handful of ILO managers, despite having access, used it actively to upload or consult information. In fact, the information provided in the ICONet has not been regularly updated and is generally modest in scope, thus not considered very useful by ILOs and their managers.

Additionally, an overwhelming majority of consulted ILOs indicated that while operating within the same local network they do not generally adopt common approaches to gathering and reporting information. In their view, and in particular in the view of those with law enforcement background, any attempt to frame information exchange should be avoided as it could inadvertently place more restrictions on the ILOs ability to share it. Nevertheless, information and practical experiences are shared on a frequent basis and when needed. This happens mostly via informal channels, with face-to-face bilateral contacts (42%), emails (35%), WhatsApp (13%), telephone (10%) being the most important channels, while formal meetings of ILO Networks reportedly used to channel information by only 14% of ILOs<sup>53</sup>. Still, ILOs interviewed in the framework of the evaluation, declared interest in having a common web-secured platform or apps for strategic and operational information exchange.

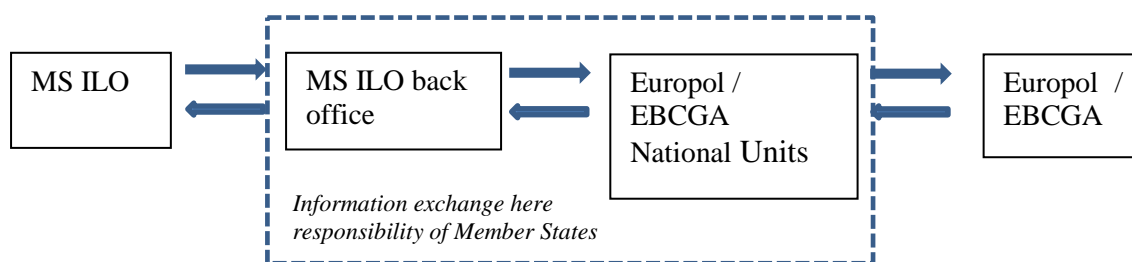
The ILO Regulation, and in particular its amendment of 2011, was also aimed to stipulate a more systematic sharing of information with Union Agencies, notably Frontex (currently EBCGA). It was argued at the time of the revision that ILOs could provide a substantial contribution to the risk analysis developed by the Agency. However, the evidence stemming from the evaluation, including feedback received from the EU

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<sup>53</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017, p.60.

Agencies themselves<sup>54</sup>, leads to a conclusion that any direct interactions with ILOs are limited to meetings which Agencies organise (e.g. risk analysis networks' meeting such as AFIC, TU-RAN) or attend (ILO network meetings in some countries). Information is ultimately shared by ILOs on a bilateral basis via their national administration and then via formal channels defined in the legal basis of each Agency, as presented in the graph below. This, as concluded in the external evaluation, not only slows down the flow in both directions but too often constraints it completely.

Figure 4. Flow of information between ILOs and Union Agencies



As reported by both the EBCGA and Europol, it was not uncommon that analytical products developed by either of the Agencies failed to be transferred to ILOs despite being of high relevance of them. Equally, information collected by ILOs has not been systematically shared with the Union Agencies. The external evaluation revealed that just under half of back offices indicated that they do it on a regular basis<sup>55</sup>. In this respect, the mechanisms that were provided by the Regulation have not been fully realised.

Finally, the Regulation has not had any measurable impact on the level or scope of information sharing between ILO managers in different Member States. Only 8 out of 20 back offices reported on some degree of exchange with other Member States' authorities. The only attempt to systemise such exchange at the European level, was undertaken in the context of the Commission led Expert Group of Member States on ILO Networks, which despite having an advisory status, served de facto as a networking platform for back offices. As concluded in the evaluation, the current system cannot address in a sustainable manner the real necessity of communication and information exchange between ILOs, back offices and EU Agencies.

### Effectiveness of reporting provision

The bi-annual Presidency report on activities of the ILO network in a given host country (Part I) and information concerning the situation in matters relating to illegal immigration (Part II) in the same country constitutes the formal reporting provisions of the ILO Regulation. The report's format is set out by the Commission Decision of 29 September 2005 and stipulates that it should be based on facts and figures and on available and reliable sources of information so as to enable correct assessment of the situation. The final report shall be treated as "RESTREINT UE" document.

<sup>54</sup> Following EU Agencies were consulted on this topic: EBSGA, Europol, EASO, EUROJUST, FRA and CEPOL.

<sup>55</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.

Since the 2011 amendment, Member States holding the Presidency of the Council may have chosen, in consultation with the Council and the Commission, a third country or a region "of particular interest to the EU" to report on. However, the analysis of the Presidency reports undertaken in the context of the external evaluation revealed that the reports prepared so far have not reflected a balanced selection of third countries with particular risks for irregular migration (see Figure 7 in Annex 4). This has largely been caused by the fact that the choice of reporting has often been less guided by the relevance of the location and more by the availability of national staff in specific locations. ILO managers pointed out that having representation in the third country subject to reporting can in a practical way assist the process of drafting, notably gathering information from ILOs and other stakeholders, however, it can also result in the same country being regularly targeted for reporting just because ILOs are conveniently based there. This would explain for instance the concentration of reporting on the Western Balkans and Turkey (covered by respectively 56% and 24% of all reports submitted by Member States so far), which both hosting relatively big ILO networks. The evaluation concluded too that contributions from ILOs to the collection of information and analysis in relation to the country selected for the Presidency reporting, was often very limited despite this being a specific task of ILO Networks stipulated by Article 4 of the ILO Regulation.

Furthermore, the effectiveness of the bi-annual Presidency reports as an information tool proved to be limited both because of their insufficient comprehensiveness and variable quality and the fact that they have not usually reached the right audience at Member States and European levels. Since the adoption of the Regulation, the reporting has only covered a handful of third countries and typically referred to past trends that were no longer of relevance at the time of the presentation of the report to the Council. While the format of the Presidency reports is very prescriptive, the Regulation fail to stipulate annual or periodic updates on issues cited in past reports, offering only a snapshot of the migration situation in a given country during that particular reporting period<sup>56</sup>. Additionally, the geographic scope limitation of the individual reports does not allow for using them to monitor compliance with the Regulation or developments in ILO networks on a global scale.

As observed by the evaluation, the lack of provision for a follow up mechanism to the recommendations from Presidency reports, after these having been presented to the Council Working Party, undermined both their usefulness and actual application. There is no discernible pattern with respect to Member States' use or non-use of the reports, but there is a wide consensus that the bi-annual reports fall short of expectations as formulated in the ILO Regulation. The Presidency reports are considered to provide limited added value, both for the operational work of ILOs and for the situational awareness of the border situation, pre-frontiers intelligence picture and risk analysis at the European and national levels.

### Role of the ILO Regulation in relation to supporting returns

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<sup>56</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.

The current Regulation stipulates that ILOs could render assistance in establishing the identity of third country nationals and in facilitating their return to their country of origin. This aspect of ILOs' tasks has in fact increased and become more significant for their roles, and resulted in additional tasks being expected of them as well as the creation of specific returns and readmission services in some Member States' administrations. Joint EU readmission agreements with third countries as well as the use of the EBCGA for organising joint charter flights for removals have further strengthened the focus for ILOs on returns.

To this end, the European Return Liaison Officers (EURLOs) Specific Action was developed in 2013 by Belgium and the Netherlands under Asylum, Migration and Integration Fund<sup>57</sup>. It established a network of specialised liaison officers deployed to key third countries with a deliberate mandate to support EU returns. The role of EURLOs is to facilitate returns, for any Member State who is part of the programme, by supporting establishing of identity of third country nationals and obtaining travel documents. At present 17 Member States have joined the project financially and benefit from the support of EURLOs appointed in 10 third countries<sup>58</sup>.

The successful roll out of this project emphasises that there is both Member States interest and an ongoing need for such joint specialised deployment. It also seems to fill the apparent gap, given that only 9% of ILOs stated, when interviewed during the external evaluation, that their tasks are exclusively linked to facilitation of return. Such dedicated deployments of liaison officers, as reported in the stakeholders' consultations, promote also a comprehensive operational cooperation on return between Member States, the European Commission, third countries' authorities, EBCGA, relevant international organisations and NGOs.

#### Effectiveness of EU level coordination of resources at the European level

The focus of the current Regulation was on ensuring cooperation and coordination of activities of individual ILOs within local networks in third countries. However, the current review brought to the light the major shortcoming of this approach that lacks provision for the strengthening of cooperation between Member States authorities responsible for management of national liaison officer networks at the European level. In reality, close cooperation between the managers of the national ILO networks is critical to the effective use of the liaison officers deployed to third countries and for ensuring the fulfilment of their tasks stipulated in the Regulation.

Indeed, a number of Member States authorities deploying the highest number of ILOs felt that gap and formed the ILO Managers Network (ILOMN) soon after the adoption of the ILO Regulation. The ILOMN currently consists of senior ILO network managers from several European and Schengen associated countries (Netherlands, Germany, Austria, Finland, UK, Norway, and Switzerland) and four non-EU/non-Schengen members (New Zealand, Australia, US, Canada). Since 2013, ILOMN has been operating according to "Guiding Principles for Co-Location". These principles correspond to a certain extent with the ILO Regulation, but also take the Regulation one step further by

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<sup>57</sup> Regulation (EU) No 516/2014 OF The European Parliament and of the Council

<sup>58</sup> EURLOs are currently deployed to Afghanistan, Bangladesh, Congo, Ethiopia, Guinea Conakry, Indie, Morocco, Iraq and Nigeria. In 2018, new pilot deployment pursued by EBCGA in 2018 includes Ghana and possibly Thailand and Vietnam.

formulating operational guidelines which allows for each ILOMN member to decide how their ILO activities would best contribute as a member of a 'co-located team' (ILO network), i.e. in the absence of formalised ILO coordination at the European level, the ILOMN serves as an alternative forum for cooperation, exchange of information and mutual learning and that allows for closer coordination with no-EU/non-Schengen like-minded partners.

In the views of the stakeholders consulted, the lack of a proper European level coordination mechanism had a negative impact on the effectiveness of the implementation of the Regulation. In fact, the ILO back offices play a critical role and form ultimate structures through which the fulfilment of ILOs tasks and communication from the ILOs networks to the EU and its Agencies can be ensured.

### **Efficiency**

The external evaluation allowed for a limited assessment of the efficiency of the current ILO Regulation, by identifying the main costs emerging from its implementation and comparing it with the results achieved. The ILO Regulation served mostly to formalise an already existing situation of ILOs being deployed to third countries by Member States, by introducing more prescriptive provisions in relation to networking, gathering and sharing information, coordinating positions vis-a-vis third country stakeholders. As such, the majority of obligations in the Regulation did not fundamentally alter the nature and scope of the activities carried out by ILOs and by their managers in national administration.

The two new elements that the ILO Regulation introduced were, firstly, an obligation for Member States authorities to notify other Member States on the planned and actual deployments of ILOs, and secondly, a bi-annual Presidency reports on activities of ILO networks and the situation in host third country in relation to illegal immigration. For the former, the analysis provided in the context of the external study estimated a total administrative burden for all Member States deploying ILOs and linked to the notification of ILO deployments, at approximately 7 520 EUR per year. For the latter, with the overall costs incurred to prepare 39 Presidency reports on individual countries presented since 2004, analysed during the study amounts to between 0,7MEUR million (low estimate) and 3,7EUR (high estimate) per year<sup>59</sup>.

Additional cost linked to the implementation of the Regulation derived from a possibility to co-finance ILOs deployments using the External Border Fund (EBF) 2007-2013, both under the national allocations as well as through the Community Actions mechanism. A total of 8.3MEUR of Union financial resources were allocated to support the joint ILO deployments by at least two Member States and a further EUR 24.4 million was programmed to support ILOs by 9 Member States through their 2007-2013 national programmes. The co-financing for the deployment of ILOs continues to be available also in the current financial framework under the Internal Security Fund – Borders Member States national programmes.

The analysis of effectiveness revealed that the costs incurred to the affected stakeholders, i.e. ILOs and their deploying administration, and deriving from the new requirements imposed by the ILO Regulation are marginal compared to the potential gains provided by

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<sup>59</sup> Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017.



the ILOs networking activities, in particular in preventing illegal immigration at the Union external air borders, detecting documentary frauds, contributing with analysis to on-going investigations into criminal networks of migrant smugglers and traffickers and facilitating return of third country nationals staying illegally in the EU. Indeed, there are several aspects of migration management to which ILOs contribute by actively preventing irregular migration and possibly lowering the costs of reactive measures aimed at combating it. However, even if it is likely that the existing legal basis contributes to mitigate these expenses, methodologically sound conclusions on the efficiency of the ILO Regulation cannot be drawn from available data.

### **EU added value**

As argued before, due to limited data availability on the performance of the ILO networks, it has been particularly difficult to attribute the developments occurred in the architecture of the ILO networks since 2004 to the Regulation and to provide a robust assessment of the actual EU added value of this legal framework.

The objective of the ILO Regulation was not to establish new positions of ILOs but to stipulate networking, cooperation and information exchange and to provide a common understanding and rules on how those liaison officers should interact when co-located in third countries to work on migration related tasks. As signposted by ILOs and their managers, these networking activities was so inherent to the ILOs work that it materialised by default, without requiring a specific instruction or policy to be developed and had already existed before the legal framework was established. Thus, the ILO Regulation had limited added value as to the growth, consolidation and strengthening of local ILOs Networks.

Additionally, the new requirements for information sharing and reporting, i.e. Presidency reports and ICONet, have proved ineffective and inadequate to the underlining objective of gaining a comprehensive assessment on the migration situation in the key third countries. They have not succeeded in systematising flow of strategic and operational information upwards from the ILO Networks to the EU bodies (i.e. Commission, EU Delegations and Union Agencies) or horizontally across the networks and Member States authorities.

Crucially then the failure to have a sufficient European level framework obliging Member State back offices to cooperate and coordinate resources has been a major barrier to collectively exploiting the potential of ILOs and their networks in terms of EU added value. Member State authorities consulted in the framework of the evaluation recognise that and have expressly requested that a more systematic approach be taken to their networking in order to facilitate more effective cooperation.

## **6. CONCLUSIONS**

Nearly fourteen years have passed since the entry into force of the ILO Regulation and over ten years since its last review. This has been the first attempt in those years to review the impact and implementation of the Regulation, and it has been a challenge to assess its implementation at times due to the limited data available. Despite these limitations, the wide and participatory consultative approach taken throughout the evaluation process allowed conclusions to be drawn, though it is clear that qualitative and quantitative indicators would need to be set and be monitored to facilitate any future evaluation.

It became apparent in the process of the evaluation that ILOs and their networks remain relevant in the current global migration context and retain coherence with the Union policies on migration in all their aspects, in particular those aimed at preventing and combating irregular migration. The ILOs have operational expertise, first-hand knowledge and contacts in host third countries that are relevant and useful when pursuing cooperation on migration issues with authorities and other relevant stakeholders and collecting information to support evidence-based policy making. The ILOs have been often described as 'ears and eyes in third countries' which illustrates their unique position and capacity to analyse challenges and provide strategic advice and operational support to preventing and countering irregular migration, facilitating return of the third country nationals illegally staying in the Union and legal migration.

The main conclusion from the external evaluation and stakeholders consultation is that ILOs are tightly bound to their home administration in terms of tasking and prioritising their work as well as the sharing of information. Whilst the existing Regulation concentrates on directing how officers should design, develop and manage networks locally in third countries, it neglects to address the fact that the vast majority of ILOs are Member State resources with clear bilateral objectives and guided by national administration.

The evidence has also demonstrated that the current Regulation has not been responsible for instigating the systematic establishment of formal networks. Indeed, evidence suggests that networking takes place in some form or another in any location where three or more ILOs are deployed. These networks may differ significantly by location, depending on how they are organised; the levels of collaboration available and possible with third country authorities; and the levels of network formalisation. It was noted as well that ILO networks seldom include all the ILOs deployed in the same location. Their involvement in different networks depends, among others, on their individual mandates, tasks, bilateral priorities of the sending country as well as less objective factors such as simply the personalities of liaison officers.

The evaluation highlighted that a more systematic approach was needed at the European level and emphasised the importance of institutionalising further work at this level between Member States, the Commission and the Union Agencies responsible for managing networks of ILOs. The evaluation cited the experience of the Immigration Liaison Officers Managers Network, (ILOMN), which draws together managers of ILO networks from some EU Member States and non-EU/non-Schengen states into a semi-formal group who meet twice a year. ILOMN has successfully been used as a forum for those countries taking part to identify strategic synergies as well as agree codes of conduct directing how their ILOs interact on the ground. A revision of the current Regulation that aims to redress the above-mentioned shortcomings should therefore seek to balance obligations towards Member States' ILO network managers and strengthen their engagement at the European level through a formal governance mechanism. Such a mechanism would need to include managers of Member State ILO networks that have responsibility and authority to direct and coordinate their resources in third countries. It should also provide a clear framework for planning, executing and co-ordinating the development and operation of the networks at a European level, which the evaluation identified as being missing in the current Regulation, alongside providing a platform through which newly developed European deployments and networks could be integrated and coordinated too.

In terms of enhancing and promoting the exchange of information between Member States ILO networks as well as the Union and its Agencies, the existing ILO Regulation has had no measurable impact on the level and scope of information sharing and not succeeded so far in a systematic flow of strategic information and operational analysis upwards from the ILO networks to the EU bodies, i.e. Commission, European External Action Service, EU Delegations and EU Agencies, as well as horizontally across the networks and Member States. Furthermore in terms of information exchange the effectiveness of the bi-annual Presidency Reports as information tool has been limited and had limited added value as unanimously agreed by all stakeholders consulted in the course of this review. Other forms of reporting remained decentralised and fragmented across Member States, with ILOs reporting on a bilateral basis direct to their own back offices.

It is clear that, when the heavy cross-border nature of the work of ILOs is considered, the objective of the current legal framework remains fully valid today and cannot be attained by Member States alone, thus confirming the importance of the EU intervention in this area. The ILO Regulation remains coherent with the large number of EU initiatives on preventing and countering irregular migration, with synergies and complementarities between Member States ILO networks and new EU actors such as EMLOs, EURLOs and EBCGA LO but strongly dependant on the modalities for implementation of these new functions. Furthermore, the evaluation made clear that the current Regulation contains provisions that have neither been applied in practice nor monitored.

In conclusion, the evaluation clearly demonstrated the continuing relevance and value for Member States, EU and Union Agencies' ILOs in managing migration pressures upstream in third countries. It did however highlight the flaws in the existing Regulation which has prevented the optimal use of these networks, draw attention to the fact that there is still much room for improvement regarding the coordination of activities of the ILOs and provided concrete recommendations that could be built upon with a revision.

## **ANNEX 1: PROCEDURAL INFORMATION**

### **1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES**

The evaluation of the Regulation (EC) 377/2004 on the creation of an immigration liaison officers network has been led by Unit C1 Irregular Migration and Return Policy of DG Migration and Home Affairs.

The Agenda planning for this evaluation is PLAN/2017/2186.

### **2. ORGANISATION AND TIMING**

An inter-service steering group on the revision of ILO Regulation was set up in October 2015 in view of preparing terms of reference for the external evaluation and was systematically consulted throughout the research. In view of preparing the CSWD and COM proposal on the revision of the ILO Regulation, the steering group was relaunched in November 2017. The following DGs and Services were invited to participate: Secretariat-General of the Commission (SG), Legal Service of the Commission (LS), DG Justice and Consumers (JUST), DG International Cooperation and Development (DEVCO), DG Neighbourhood and Enlargement Negotiations (NEAR), DG Budget (BUDG) and the European External Action Service (EEAS).

The group met 3 times during the evaluation process. The first meeting was set up on 28 November 2017. The second meeting took place on 11 January 2018 and third on 22 January 2018. The meetings, chaired by DG HOME, allowed discussing both the evaluation and a possible modification of the current legal framework. All the DGs involved had the opportunity to provide their views, ask for clarifications and submit comments to the draft documents. Besides meetings, regular written communication among the members was maintained.

For the purpose of the evaluation and possible revision of the legislation, an external evaluation was carried out between July 2016 and August 2017, followed by the additional information gathering and analysis until April 2018.

### **3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES**

Given the limited scope of the application of the ILO Regulation, only targeted consultations with relevant stakeholders were carried out during the external evaluation process. All stakeholders involved in the implementation of the current legal framework and likely to be impacted by the envisaged changes, i.e. authorities of Member States and their immigration liaison officers, EU institutions and Union Agencies were consulted. 14 workshops in key third countries where liaison officers are deployed were carried out, involving consultations with all relevant staff, notably from EU Delegations, consular sections or national embassies of MS, international organisations such as IOM and UNHCR and national authorities of the hosting countries. Additionally, EU institutions and Union Agencies were consulted. Finally, tailored consultations took place in a form of five regional events gathering MS ILOs and other relevant stakeholders that will take place between November 2017 and February 2018 in Islamabad, Belgrade, Moscow, Amman and Tunis.

#### 4. CONSULTATION OF THE RSB (IF APPLICABLE)

#### 5. EVIDENCE, SOURCES AND QUALITY

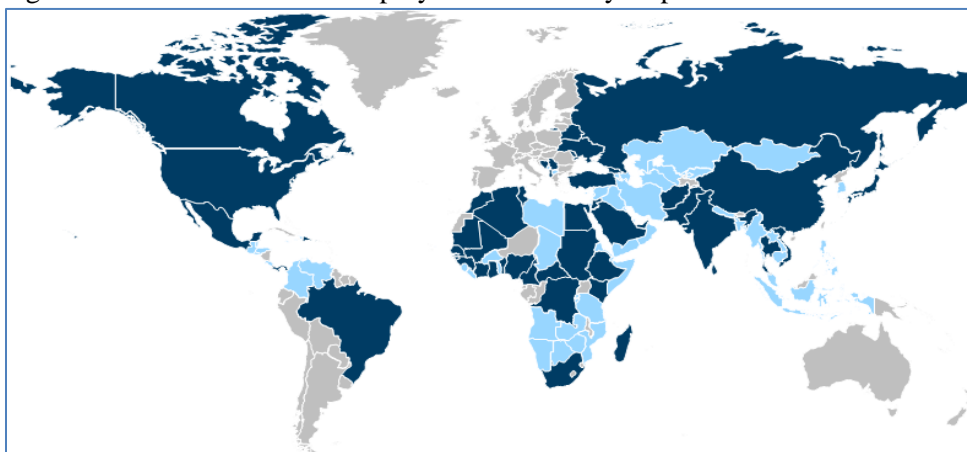
As a result of the limited availability of data and documentation, the evaluation is to a large extent based on in-depth consultations with ILOs and ILO managers.

##### ILO focus groups and surveys responses

Member States' ILOs who participated in the 16 Focus Groups, represented 26% of the Member States ILOs posted in third countries and covered 20 sending countries.<sup>60</sup> Up to 69% of the focus group participants represented six EU countries: France, Spain, Germany, UK, the Netherlands and Austria.<sup>61</sup>

A total of 142 ILO survey responses were received, representing about 26% of the Member States ILOs posted in third countries and covering 18 Member States.<sup>62</sup> 67% of the ILO survey respondents represented France (26 responses), Spain (20 responses), Germany (14 responses), Austria and the Netherlands (each 12 responses), and Norway (11 responses).<sup>63</sup> The 142 ILO respondents cover a total of 50 distinct third-countries around the globe according to their posting location (dark blue) and an additional 61 countries as part of their mandate (light blue). The geographic distribution of the ILOs' deployment and coverage is visualised in the Figure 5 below:

Figure 5. Distribution of ILO deployments of survey respondents



Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

##### Back office survey responses

Back office survey respondents represent 21 distinct EU Member States. Two Member States (Finland and Norway) submitted separate survey responses on behalf of each competent authority that is deploying ILOs abroad (immigration authorities and the police). Three of the back office respondents (Austria, Germany and Sweden) provided separate responses to certain questions according to the different types of ILOs that countries deploys. Consequently, the total number of distinct responses varies, and for

<sup>60</sup> ILOs from Croatia, Denmark, Estonia, Greece and Latvia were not represented in the Focus Groups. Cyprus, Ireland, Lithuania, Luxembourg and Malta have not deployed ILOs abroad.

<sup>61</sup> 98 in total as a percentage of 143 EU / Schengen ILOs.

<sup>62</sup> ILOs from Belgium, Croatia, Czech Republic, Denmark, Estonia, Portugal and Slovenia were not represented in the ILO survey.

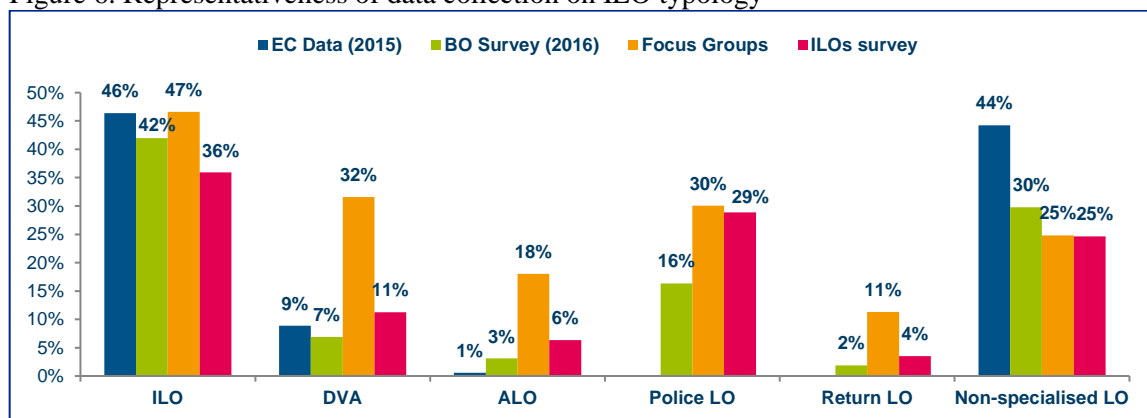
<sup>63</sup> 95 responses in out of 142 survey respondents.

certain questions, is as high 26 individual responses. To balance the potential gap in missing back office data, supplementary interviews were conducted with four Member States that did not return a back office survey.

### Overall representativeness

Figure 6 provides an overview of the focus group participants and ILO survey responses per ILO typology, related to the entire ILO population posted in third countries.

Figure 6. Representativeness of data collection on ILO typology



Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

According to the outcomes of the Commission mapping of ILO deployments that was completed in September 2015, approximately 554 European ILOs were posted in third countries at that time. According to the external evaluators' calculations, this number has risen to 581<sup>64</sup>. Tables 5 and 6 indicate that, with regards to the ILO typologies, the ILOs consulted in the Focus Groups and the ILO survey provide a representative sample of the various types of ILOs in the entire ILO population

Table 5. Representativeness of ILOs consulted (number of ILOs per typology)

	Total ILO population		ILOs consulted	
	DG HOME data (2015)	Back Office survey (2017)	Focus Groups (2016)	ILO survey (2016)
Immigration liaison officer	257	244	62	51
Police liaison officer	-	95	40	41
Document and visa advisor	49	40	42	16
Airline liaison officer	3	18	24	9
Return liaison office	-	11	15	5
Non-specialised liaison officer / other	245	173	33	35
Total number of responses <sup>65</sup>			216	157
Total number of respondents	554	581	133	142
Response rate (2016)			25%	26%

<sup>64</sup> Calculations are based on a combination of Back Office survey response and the Commission mapping exercise from 2015.

<sup>65</sup> Respondents to the Focus Group data collection exercise and to the ILO survey, respectively, were given the option to select multiple response options, therefore the "total" figure (i.e. 133 and 142, respectively) refers to the number of respondents, not the number of selected responses.

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

Table 6. Representativeness of ILOs consulted (% of total number per typology)

	Total ILO population		ILOs consulted	
	DG HOME data (2015)	Back Office survey (2017)	Focus Groups (2016)	ILO survey (2016)
Immigration liaison officer	46%	42%	47%	36%
Police liaison officer	-	16%	30%	29%
Document and visa advisor	9%	7%	32%	12%
Airline liaison officer	1%	3%	18%	6%
Return liaison office	-	2%	11%	4%
Non-specialised Liaison officer / other	44%	30%	25%	25%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>-</b>	<b>-</b>

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

## **ANNEX 2: STAKEHOLDER CONSULTATION**

Targeted consultation has accompanied the evaluation of the ILO Regulation. The design of the evaluation was based on a participatory approach allowing for an active involvement of key stakeholders, notably Member States ILO back offices, who manage ILO networks at national level, as well as ILOs themselves. 14 workshops in key third countries where liaison officers are deployed (Pakistan, Jordan, Egypt, Nigeria, Ethiopia, South Africa, Albania (Western Balkans region), Morocco, Senegal, Ghana, Turkey, Thailand, China, and Russia) were carried out, involving consultations with all relevant staff, notably from EU Delegations, consular sections or national embassies of MS, international organisations such as IOM and UNHCR and national authorities of the hosting countries. Additionally, in-depth interviews with EU institutions, EU Agencies and Member State back offices were conducted to collect detailed information on the experiences with the ILO Regulation. A total of 62 interviews were conducted during the field missions followed up by two different targeted surveys to all ILOs and their managers. Finally, an 'ILO back office panel' was constituted by the staff of four Member States' ILO back offices: France, Germany, the Netherlands and the United Kingdom. These sources were triangulated to provide robust evaluation results.

The Expert Group of Member States on ILO Networks was involved throughout the evaluation process, in particular during the meetings held in May 2016, March 2017 and September 2017, and consulted on recommendations. Additional tailored consultations took place in the form of 6 regional events gathering ILOs and other relevant stakeholders between November 2017 and March 2018 in Islamabad, Belgrade, Moscow, Tunis, Amman and Dakar.

Further, targeted consultation with relevant stakeholders, including EU Agencies (EBCGA, EUROPOL, EASO, FRA, EUROJUST, EU-LISA and CEPOL), Member States took place in November 2017 – January 2018 in the framework of the COM work on the revised legislative proposal. Notably, a panel of Member States deploying the largest ILO networks was re-convened in January, to take on board further insight from them.

The results of the stakeholder consultation have broadly concurred with the conclusion of the external evaluation. The consulted stakeholders have appreciated the potential of immigration liaison officers to support the implementation of the Union priorities in the field of migration. They voiced need for better cooperation and coordination mechanisms to be established. Member States, in particular, stressed value of cooperation with non-EU states deploying liaison officers and requested flexibility to be retained as to the formation of the local and regional networks of immigration liaison officers. The Union Agencies solicited a closer cooperation with the networks of immigration liaison officers and more effective sharing of information with the Agencies and use of analytical product produced by the Agencies. Furthermore, there was a unanimous agreement across all consulted stakeholders on the ineffectiveness of the current provisions linked to information sharing and reporting mechanisms.



## ANNEX 3: METHODS AND ANALYTICAL MODELS

### The external evaluation

The evaluation methodology followed the principles of the EU Better Regulation Guidelines. A logical framework ('intervention logic'), combining the most relevant elements of the ILO Regulation, is explained in detail in Annex 4.

The research and consultation process was primarily constituted by field research activities with data being collected from various sources:

- Document analysis
- Fact-finding missions to 14 third countries
- Interviews with EU stakeholders, Back Offices and international organisations
- Targeted survey to ILOs
- Targeted survey to ILO Back Offices
- Feedback from the Evaluation Steering Group.

These sources were triangulated to provide robust evaluation results.

Document analysis was conducted at the start of the evaluation and throughout the evaluation process. While some of the information was publicly available, certain documents were of a confidential nature and therefore might have only been used as input for the analysis. Particularly relevant sources of information consulted were: the bi-annual ILO Presidency Reports; minutes from Expert Group of Member States on ILO Networks meetings and other ILO-related events, and associated supporting documentation; technical implementation reports related to ILO deployments under the European Borders Fund (EBF, 2007-2013); open source documents, such as relevant EU Regulations, EC Communications, EU Action Plans, readmission agreements and IATA Code of Conduct.

The external evaluator study team visited 14 third countries where ILOs are deployed: Pakistan, Jordan, Egypt, Nigeria, Ethiopia, South Africa, Albania (Western Balkans region), Morocco, Senegal, Ghana, Turkey, Thailand, China, and Russia, reaching out to ILOs deployed to third countries and their local and regional networks (competent authorities, airline carriers, international organisations et cetera). The mission locations represent both high and low levels of ILO deployment, as well as countries that are either an important source of irregular migration (for example Ghana and Nigeria), transit airline hub (for example Turkey and Thailand) or land- and sea transit countries (for example Egypt and Jordan). The selected countries also vary in their levels of cooperation with the EU in matters of illegal migration.

The missions took place from July until December 2016. The Focus Groups in Senegal, Ghana and Albania had a specific regional outreach, with ILOs present from surrounding countries, while others were more country specific (in some cases with participation of one or two ILOs posted in neighbouring countries). ILOs attending the focus groups had bilateral or regional assignment.

A total of 161 individuals participated in the 16 Focus Groups. The 161 participants included 143 ILO representatives of EU and Schengen States, 5 ILOs of non-EU and non-Schengen States and 13 EU representatives (EUDEL, COM, EBCG). The majority of the Focus Group participants were ILOs according to the definition of Article 1 of the ILO Regulation. Representatives of consular sections or national embassies dealing with migration issues also attended the Focus Groups, however they did so at a lower

frequency. The first EBCG LO (posted in Turkey) joined the Focus Group in Ankara.

A total of 62 interviews were conducted during the field missions. At each location, additional face-to-face interviews were conducted with individual ILOs (prior to or after the Focus Group) as well as with relevant host country stakeholders, including competent authorities, local police, airlines, international organisations and EU agencies (EUDEL, IOM, UNHCR). In addition, the study team participated in four airport visits (Islamabad, Amman, Lagos and Johannesburg) and attended two fraud control meetings (in Jordan and Ethiopia).

After the completion of all missions, two different targeted surveys were developed and distributed to all ILOs and ILO Back Offices. The objective of these surveys was twofold: to fill any gaps where information was missing or required additional clarification and to validate initial findings from research activities. The surveys were launched on 15 December 2016 and ran until 11 January 2017. In total, 142 individual responses were received on the ILO survey and 23 on the Back Office survey (representing 21 distinct Member States).

Additional in-depth interviews with EU institutions and Member State Back Offices were conducted to collect detailed information on the experiences with the ILO Regulation. The study team carried out interviews with a total of 7 EU stakeholders from Commission services and relevant EU Agencies, as well with 12 Member States' Back Offices. The study team was supported by an 'ILO Back Office Panel', constituted by the staff of four Member States' ILO back offices: France, Germany, the Netherlands and the United Kingdom. The Back Office Panel members were invited to participate in two team workshops in September 2016 (covering topics related to the evaluation design and approach) and January 2017 (aiming at validating the main findings of the research). The study team also attended the ILO Managers Network (ILOMN) meeting in Helsinki on 13 October 2016 where interim findings were presented and discussed.

Essential to the study was the feedback from the Evaluation Steering Group that has been set up for this study. Meetings with the steering group took place on June 21 2016 (kick-off meeting), July 7 (inception meeting), November 7 (interim meeting) and January 24 2017 (draft final report meeting).

#### Costs-efficiency analysis

The evaluation of the efficiency of ILOs Networks requires an assessment of the costs incurred by different stakeholders to implement the Regulation in relation to the outputs and anticipated benefits (impacts) to be materialised as a result of the intervention.

A methodology was developed to assess the main changes that the Regulation brought about for the affected stakeholders, namely ILOs and their back offices. Where possible, the costs incurred to comply with the Regulation were quantified using a combination of labour statistics data on labour costs (ILOStat, International Standard Industrial Classification of all economic activities, ISIC Revision 4) and inputs from the stakeholder consultations to derive a set of assumptions to make estimates on administrative and compliance costs to ILOs and ILO back offices. The calculation of these costs is based on a simplified estimation model rather than the Standard Cost Model as not all of these costs and potential benefits can be quantified, particularly regarding the nature and scope of cooperation between ILOs posted in the same third country compared to the pre-Regulation situation.

Moreover, external evaluation study team has encountered difficulties to obtain data that would enable an accurate estimation of the actual achievements (i.e. benefits, including the number of prevented cases of visa abuse in the visa sections of Member States' consular services and the number of successfully advised interdiction cases) realised due to Network-level activities as opposed to individual level actions. In the absence of reliable data on Network-level achievements, it is not possible to draw any meaningful conclusions regarding the magnitude of cost savings to Member States from the prevention of inadequately documented arrivals on EU territory.

The economic analysis is concerned with those obligations that were introduced by the Regulation, without which Member States' ILO Back Offices, as well as their deployed ILOs, would not otherwise carry out. An analysis revealed that the only compliance cost involved with implementing the ILOs Regulation are the requirement to contribute to the Bi-annual Presidency Reports and to inform one another of Member States' secondments of ILOs. This requirement constitutes the main administrative burden imposed on relevant stakeholders from the Regulation.

Due to the aforementioned data limitations concerning the costs associated with implementing the Regulation, it has been necessary to make a number of assumptions related to the number of reports, number of stakeholders affected, hourly labour costs for preparatory meetings, gathering necessary information, compiling and writing the reports as well as time spent to update the system and check on upcoming deployments of other Member States' back offices. Table 7 and 8 below show the total estimated costs to comply with the ILOs Regulation.

Table 7. Summary of costs linked to Presidency Reports (EUR)

	Time spent per person (per report)	Number stakeholders affected (per report)		Hourly wage	Cost of 39 Reports	
		Low	High		Low	High
Meetings in host country (ILOs)	12 hours	3 FTE	6 FTE	EUR 89,00	EUR 124.830	EUR 249.659
Data gathering collection (ILOs)	40 – 80 hours	3 FTE	6 FTE	EUR 89,00	EUR 416.099	EUR 1.664.395
Report drafting (Back Office)	1 – 4 months	1 FTE	3 FTE	EUR 23,50	EUR 146.640	EUR 1.759.680
<b>Total costs</b>					<b>EUR 687.568</b>	<b>EUR 3.673.734</b>

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

Table 8. Summary of costs linked to informing about deployment (EUR)

Activity	Time spent per person	Number stakeholders affected	Hourly wage	Annual costs for 40 BOs
Reporting in ICONet (back office)	8 hours / year	40 FTE	EUR 23,50	EUR 7.520
<b>Total costs</b>				<b>EUR 7.520</b>

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

## ANNEX 4: ADDITIONAL DATA AND ANALYSIS

This annex presents additional data and figures relevant for the setting the context and understanding of functioning of the ILO Regulation.

### Intervention logic of the ILO Regulation

Some elements of the logical framework for the evaluation are directly outlined in the recitals of the Regulation 377/2004, others had to be deducted from the specific articles. The results of the analysis aiming at reconstructing the intervention logic are presented in the Figure 6 below.

Figure 7. Intervention logic of the ILO Regulation

Logical Framework elements	
Need	More operational cooperation and coordination when considering the common concern of the external border of the Schengen area, including a closer integration between tasks performed at external borders. <sup>66</sup>
Overall objectives	<ul style="list-style-type: none"> <li>- Prevention and combating of irregular immigration</li> <li>- Return of irregular immigrants</li> <li>- Management of legal migration</li> </ul>
Specific objectives	<p>To create networks of European immigration liaison officers posted in third countries, and to formalise the existence and functioning of these networks, with the aim to pool actions taken by ILOs and to enable the officers deployed to a particular location to liaise with one another through a legally binding instrument. Specific objectives are:</p> <ul style="list-style-type: none"> <li>- Enhanced ILO cooperation on operational and strategic level</li> <li>- Enhanced exchange of operational and strategic information on ILO tasks as specified in Article 1 of the ILO Regulation.</li> </ul>
Operational objectives	<p>Article 2 of the ILO Regulation:</p> <ul style="list-style-type: none"> <li>- Establish and maintain direct contacts with the competent authorities in the host country and any appropriate organisation within the host country</li> <li>- Collect information for use either at operational level, strategic level, or both</li> <li>- Render assistance in establishing the identity of third country nationals</li> <li>- Facilitate return of third country nationals to their country of origin</li> </ul>
Inputs	Promotion by EU / Schengen area Member States of the formation and formalisation of ILOs Networks through a legally binding act.
Activities	<p>ILOs Networks shall (Article 4 of the ILO Regulation):</p> <ul style="list-style-type: none"> <li>- Meet regularly and whenever necessary</li> <li>- Exchange information and practical experiences</li> <li>- Attend joint specialised training courses</li> <li>- Coordinate positions in contacts with commercial carriers</li> <li>- Organise joint information sessions and training courses to host country counterparts</li> <li>- Adopt common information gathering and sharing approaches</li> <li>- Contribute to the biannual reports of their common activities</li> <li>- Establish and maintain contacts with similar networks in host country or region</li> </ul> <p>Member States shall (Article 2 – 5):</p> <ul style="list-style-type: none"> <li>- Set up ILOs Networks</li> </ul>

<sup>66</sup> Action Plan for the management of the external borders of the EU Member States adopted by the Council in June 2002.

Logical Framework elements	
	<ul style="list-style-type: none"> <li>- Inform each other about secondments of ILOs</li> <li>- Deploy joint ILOs or share tasks among ILOs</li> <li>- Presidency: draft the biannual ILO Report</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- ILO meetings scheduled and ad hoc</li> <li>- Information exchanged among the ILOs Network (strategically and operational)</li> <li>- Trainings attended</li> <li>- Coordinated airport activities (departure, return)</li> <li>- Coordinated positions / strategies in contacts with counterparts at the airport</li> <li>- Trainings and information sessions delivered</li> <li>- Joint information gathering activities</li> <li>- Joint information sharing activities</li> <li>- Use or creation of joint information platforms</li> <li>- Bi-annual reports produced</li> <li>- Information sharing about deployment of ILOs (Member States task)</li> <li>- Deployment of joint Member States ILOs (Member States task)</li> </ul>
Results	<ul style="list-style-type: none"> <li>- Enhanced ILO cooperation on operational and strategic level</li> <li>- Enhanced exchange of operational and strategic information on ILO tasks as specified in Article 1 of the ILO Regulation</li> </ul>
Impacts	Enhanced protection of external border in the Schengen area

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

### Typology and Deployment of ILOs

16 Member States, the EU, Agencies and Switzerland and Norway currently deploy 492 Liaison Officers who come under the regulation as ILOs. Table 4 lists the top five deploying Member States and numbers are compared to EU and Agency deployed ILOs, alongside the breakdown in percentage terms of the typology of ILO. The typology of ILO uses is as referenced in the final evaluation and is self-assessed by Member States. In summary they cover:

**Immigration Liaison Officers:** Liaison Officers deployed and designated formally as ILOs whose work covers a range of migration related activity.

**Airline Liaison Officers:** Liaison Officers specifically deployed by member States to work with airline carriers at airports to reduce irregular migration by air to their country.

**Document Verification Advisors:** Liaison Officers deployed specifically by Member States to carry out forgery examination in support of documents submitted for visa applications.

**Police Liaison Officers:** Liaison Officers deployed as Police attachés whose role covers the whole range of law enforcement liaison plus an element targeting migration related crime.

**Returns Liaison Officers:** Liaison Officers deployed by Member States to work on returns issues only to their country of deployment.

**General:** Other liaison officers deployed by Member States with a mandate that includes some migration related activity.

Table 9: Analysis of Member State and EU and Agency deployed Liaison Officers who fall under the ILO Regulation

Deploying Entity	Number	% of total ILOs	Typology	% of total
Spain	126	26%	Immigration Liaison Officer	31%
France	111	23%	Airline Liaison Officer	4%
UK	59	12%	Document Verification Advisor	8%
Germany	47	10%	Police Liaison Officer	33%
The Netherlands	25	5%	Return Liaison Officer	2%
EMLOs	13	3%	General	18%
EBCGA	3	1%		
<b>Overall total of ILOs deployed</b>	<b>492</b>			

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017 as updated by Member States in April 2018

### Creation and level of formalisation of ILO networks

Figure 8 below provides an overview of the levels of formalisation for the ILOs Networks that were present during the 14 field visits. The most common networking feature is the organisation of joint trainings, followed by organisation of or participation in anti-fraud group meetings and regular ILOs Network meetings. Nine networks have a name under which they are known by stakeholders in the host countries. Six have internal terms of reference and two have a joint agreement with authorities to have access to the airport. Information is mostly exchanged informally, which means: face-to-face (ad hoc meetings), via phone, email and WhatsApp.

Figure 8. ILO activities and level of formalisation

	Name of the ILOs Network	Joint MoU/ SoP	Internal agreements	Regular ILOs Network meetings	Anti-fraud group (AFG) meetings	Rotating airport duty schedule	Duty phone	Exchange of information	Organise joint trainings
Islamabad, Pakistan	-	-	-	-	YES	-	-	Informal**	YES
Amman, Jordan	TAIL	-	YES	Via AFG	YES	-	-	Informal**	YES
Cairo, Egypt	-	-	YES	-	YES	-	-	Informal**	YES
Lagos, Nigeria	LION	-	-	-	YES	-	-	Informal**	YES
Addis, Ethiopia	-	-	-	-	YES	-	-	Informal**	YES
Pretoria, South Africa	SAIL	YES	YES	YES	-	YES	YES	Informal**	YES
Nairobi Kenya*	NAIL	-	-	YES	YES	YES	-	Informal**	YES
Western Balkans	-	-	-	-	YES	-	-	Informal**	YES
Rabat, Morocco	-	-	-	-	YES	-	-	Informal**	YES
Accra, Ghana	GILT	-	YES	YES	YES	YES	YES	Formal	YES
Dakar, Senegal	-	-	-	-	-	-	-	Informal**	-
Ankara, Turkey	-	-	-	Via FLEC	-	-	-	Informal**	-
Istanbul, Turkey	-	-	-	YES	YES	-	YES	Informal**	-
Bangkok, Thailand	ICE	YES	YES	YES	-	YES	YES	Formal and	YES

								informal	
Beijing, China	CIILT	-	YES	YES	YES	YES	YES	Informal**	YES
Shanghai, China	SILOG	-	-	Via AFG	YES	YES	YES	Informal**	YES
Moscow, Russia	MICA	-	-	-	YES	-	-	Informal**	YES
<b>Total</b>		<b>9</b>	<b>2</b>	<b>6</b>	<b>9</b>	<b>13</b>	<b>6</b>	<b>6</b>	<b>-</b>

\*No evaluation mission, but Nairobi ILOs were present at the Addis Focus Group.

\*\* Exchange of information is informal, which means: face-to-face (ad hoc meetings), phone, email, WhatsApp

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017

### Analysis of bi-annual Presidency Reports

The bi-annual Presidency Reports are the key reporting instruments developed as part of the ILO Regulation. According to the Commission Decision of 29 September 2005 on the format for the report on the activities of ILOs Networks and on the situation in the host country in matters relating to illegal migration (2005/687/EC), the reports shall consist of two parts: part I providing information on the activities of an ILOs Network and its tasks and part II on the migration context of the country.

In the period from 2005 to first half of 2017, a total of 25 bi-annual Presidency reports have been submitted to the Council Secretariat, covering all together 20 countries. Ten out of the twenty countries have been evaluated multiple times as summarised in the Figure 9 below. There was no clear indication of the criteria used for the country selection, and it does not reflect in a balanced way those with a particular risk for irregular migration. For example in the period 2008 to 2014 the top-10 nationalities that were found illegally present in EU were Albania, Afghanistan, Morocco, Syria, Pakistan, Algeria, India, Iraq, Eritrea and Tunisia. Of these countries, only Albania, Pakistan and India have been covered by the bi-annual reports.

Figure 9. Overview of the published Presidency Reports

Country	Years reported
Albania	2005, 2012
Belarus	2013
Bulgaria	2005
Cape Verde	2007
China	2006
Croatia	2005, 2006, 2007, 2008
Egypt	2011, 2014
Georgia	2013, 2015
India	2010, 2017
Kenya	2016
Montenegro	2005, 2006
Nigeria	2013
Pakistan	2010
Romania	2005

Country	Years reported
Russia	2006, 2007, 2015
Senegal	2007
Serbia	2005, 2006, 2007, 2008, 2009, 2016
Turkey	2007, 2008, 2009, 2010, 2011, 2012
UAE	2015
Ukraine	2006, 2007, 2009, 2011

Source: Evaluation of ILO Regulation (EC) no 377/2004 on the creation of an immigration liaison officers network, Ecorys 2017