



Industrial relations and social dialogue
**Austria: Institutions, policies and
practices for enforcing minimum
wage compliance**

*Minimum wages: Non-compliance and
enforcement across EU Member States
Comparative report*

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1. Legal framework and minimum wage enforcement institutions

Regulation of minimum wage enforcement

LEGAL/ REGULATORY FRAMEWORK	<p>Provisions on the enforcement are included in legislation (“Anti-Wage and Social Dumping Act” LSD-BG §29).</p> <p>The Act was implemented in 2011 and determined a large structural reform and change in enforcement regulations. The latest amendments to the Act have been in force since September 2021.</p>
SPECIFIC REGULATIONS	<p>In the construction sector, the Construction Workers Leave and Severance Pay Act (BUAG, 1972) authorises the Construction Workers’ Holiday and Severance Pay Fund (BUAK) to carry out construction site inspections to verify compliance with relevant regulations, including regulations on wages.</p> <p>There are also different enforcement institutions and procedures for posted workers: according to the Austrian Wage and Social Dumping Combating Act (LSD-BG §11), checks and controls of foreign employers lie under the competence of the finance police, which is the investigative and control unit of the Anti-Fraud Office of the Federal Ministry of Finance. On the basis of these investigations, the so-called Competence Centre for combating wage and social dumping (CCLSDB), which is under the Austrian Health Insurance Fund (ÖGK), carries out controls of the remuneration of posted workers.</p>
DISPUTE RESOLUTION MECHANISMS	<p>Disputes are addressed mainly through an out-of-court resolution mechanism with the mediation of the Chamber of Labour or of trade unions. In case the out-of-court system is not successful, workers can file a lawsuit.</p> <p>Adverse treatment resulting from lodging a complaint can be challenged in court.</p> <p>The Labour and Social Court Act (ASGG, 1985) regulates the procedure in labour law disputes between employees and employers, thus including disputes on wages.</p> <p>The Chamber of Labour (AK) and the Austrian Trade Union Federation (ÖGB) provide workers with legal support.</p>

Enforcement institutions and coordination system in place

ENFORCEMENT INSTITUTIONS	<p>All the institutions involved are generalist institutions.</p> <p>The ÖGK and the Audit Service for Payroll Taxes and Contributions (PLB) are in charge of verifying compliance with minimum wage regulations for domestic workers, while the finance police is responsible for detecting violations in relation to posted workers.</p> <p>The BUAK is responsible for checks and controls in the construction sector.</p> <p>Cases of non-compliance with minimum wages can be brought before the Labour and Social Court. Cases can also be referred to district administrative bodies.</p> <p>The ÖGB and the AK provide legal protection and support in enforcing employees’ claims.</p>
INTERNAL ORGANISATION	<p>Enforcement institutions have regional offices.</p>
COORDINATION	<p>Coordination is based mostly on formal arrangements. There are quite clearly demarcated areas of responsibility between the different responsible bodies, and in case of overlapping competences action is well coordinated. Between the ÖGK and the PLB there is a lively, intensive information exchange.</p>

MONITORING AND DATA COLLECTION SYSTEM	There is no systematic monitoring and data collection system in place. Breaches of social and wage dumping are collected by the Federal Ministry of Labour. The category “underpayment”, however, is more far-reaching than non-compliance with minimum wages.
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Resources and capacity of control/enforcement institutions in charge of MW compliance

FINANCIAL RESOURCES	<p>No data available</p> <p>Trend: stable.</p> <p>Considered partially adequate</p>
HUMAN RESOURCES	<p>Finance police: 430 employees (2020). The ÖGK and the PLB have around 250 employees each devoted to GPLB which includes minimum wage enforcement.</p> <p>The staffing is considered partially adequate but the staff is adequately qualified.</p>

2. Enforcement measures

BALANCE BETWEEN DETERRENCE AND PREVENTIVE MEASURES	<ul style="list-style-type: none"> • There is a good balance between deterrence and preventive measures and the situation has not changed in recent years. A large network of consultation and counselling is available. The auditing and controlling measures have both deterrence and preventive character. • Deterrence measures are considered to be very effective, and they have improved over the years. Their main weakness is the lack of enforcement among foreign companies. The number of inspections is considered partially adequate: with an increase in funding and staffing, controls could be increased. Sanctions are considered very dissuasive • The counselling support provided by AK is considered very effective. • Informative and preventive actions should however be strengthened since payroll accounting is becoming more complicated and mistakes are more likely to be made.
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Deterrence measures

TYPE OF MEASURE AND CHANGE IN USE IN THE LAST DECADE	increased use over the last decade: routine inspections, spot checks, inspections by request, targeted inspections, follow up of previous offenders, use of data matching, use of supply chain responsibility, sanctions, use of blaming and sharing and blacklists.
INSPECTIONS AND VIOLATIONS	<p>Inspections have increased in the last decade, also as a result of the implementation of the Act against social and wage dumping. The number of violations detected also increased.</p> <p>ÖGK/PLB: 18,000 audits (2020).</p> <p>Finance police: 3,481 posted workers controlled. 435 were underpaid.</p> <p>BUAK: 14,454 inspections in 2020. Number of inspections almost quintupled between 2011 and 2020.</p> <p>Violations: 4,168 reports of underpayment for the period 2011-2020.</p>

SANCTIONS	<p>The range of penalties varies according to the amount of underpayment of all workers concerned. Maximum penalties vary between 20,000€ and 400,000€. Sanctions are considered very dissuasive.</p> <p>Penalties are imposed by the district administrative authorities. Since 2015, when evaluating whether a violation has occurred, bonuses, supplements and special payments are taken into account.</p> <p>With the latest amendment, coming into force on 1 September 2021, the cumulative principle – according to which the employer paid a penalty for each employee concerned – has been abolished as well as minimum penalties but installed a maximum fine instead.</p>
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Persuasion/preventive measures

TYPE OF MEASURE, INSTITUTION IN CHARGE, CHANGE IN THE LAST DECADE	Increased use of: advice, counselling and training; awareness raising and information.
ROLE OF DIGITAL TOOLS	<p>Documents can be submitted digitally. The BUAK is currently implementing the “construction card”, an ID card for employer in the sector that should facilitate the digitalization of controls and inspections even further and allow faster access to data.</p> <p>During the pandemic, a technical tool was installed so that ÖGK auditors could conduct controls remotely.</p>

3. Role of social partners and other stakeholders

Social partners

ROLE + FOCUS ON SPECIFIC SECTORS/TERRITORIES/WORKERS	<p>Trade unions, under the umbrella organisation ÖGB, as well as the AK, provide employees with consultation and advice and support them in enforcing their rights by mediating between the employer and the employee. If a case is brought before a court, the AK represents employees in court and, together with the Federal Economic Chamber, they also elect lay judges of the labour and social courts.</p> <p>Social partners have also representatives in the administration board of the ÖGK and BUAK.</p>
CHANGE IN LAST DECADE	No relevant changes
COORDINATION	No formal coordination or cooperation mechanism.
STRENGTH/WEAKNESSES	The role of social partners in minimum wage enforcement is marginal. Social partners were nevertheless strongly involved in the design of the Act against wage and social dumping.

Role of other institutions/stakeholders

OTHER INSTITUTIONS/STAKEHOLDERS	NAME AND ROLE	No other stakeholder or institution involved.
	CHANGE IN LAST DECADE	No changes

EU cooperation

EXAMPLES OF EU COOPERATION	Bilateral dialogue has been established with national authorities from neighbouring countries, with a focus on posted workers and foreign workers. No formal cooperation strategy is in place. At EU level, coordination with the ELA has started recently.
CHANGE IN LAST DECADE	Efforts to cooperate at European level have increased in recent years.
STRENGTH/WEAKNESSES	Cooperation has increased. The main weakness is the lack of data exchange systems between countries, e.g. specific information on posted workers.

4. Enforcement challenges, strengths and weaknesses of the enforcement system

MAIN ENFORCEMENT CHALLENGES	<p>The main challenges for minimum wage enforcement in Austria are related to the application of the correct collective agreement and the correct classification of individual workers within the collective agreement's wage system.</p> <p>The interpretation of which collective agreement is to be applied in some cases is not straight-forward and leaves room for loopholes.</p>
STRENGTHS AND WEAKNESSES	<p>One main strength of the system is a clear legislation, especially since the introduction of the Act against wage and social dumping. Enforcement institutions are quite effective and coordination among them runs smoothly. Enforcement problems arise however in relation to posted workers.</p> <p>Data sharing systems could be improved and resources (financial and human) could be increased.</p> <p>A further weakness relates to the decentralized structure of courts, while direct enforceability by federal authorities would be a preferable option.</p>

Source: National Eurofound Correspondent for Austria

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