

Working conditions  
**Improving the monitoring  
of posted workers  
in the EU**





# Improving the monitoring of posted workers in the EU



European Foundation  
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# Introduction

Intra-EU posting is a specific, employer-driven form of labour mobility. To offer services in another Member State, an employer sends an employee, for a limited time, to provide a service in this Member State. A posted worker is, consequently, defined as ‘a person who, for a limited period of time, carries out his or her work in the territory of an EU Member State other than the state in which he or she normally works’ (Directive 96/71/EC). This includes workers posted by a temporary work agency and those posted to a subsidiary of the company they work for at home.

Relevant EU legislation, regulating the posting of workers in the EU, aims to ensure a balance between the need to promote the freedom to provide services, and the need to ensure a level playing field for companies, as well as to protect the rights of posted workers, including their social protection. EU legislation lays down mandatory provisions regarding the working conditions of posted workers and the protection of their health and safety, as well as their affiliation to a social security system. Nonetheless, there are concerns that the rights guaranteed by the treaties of provision of services (Directive 2006/123/EC) and free movement of workers (Directive 2014/54/EU) are being abused in the context of the posting of workers, and that this could lead to distorted competition and ‘unfair’ mobility.

The debate about posting, its economic and social consequences, and ways to manage it is hampered by the fact that reliable, comparable data on the phenomenon are lacking. Accurate statistics on the number of posted workers, their characteristics and the working conditions they experience are not available. Thus, an important prerequisite for monitoring and analysing the impact of intra-EU posting is absent. This is recognised by Directive (EU) 2018/957, adopted on 28 June 2018, amending the 1996 Posting of Workers Directive (Directive 96/71/EC). Recital 5 states, ‘sufficient and accurate statistical data in the area of posted workers is of utmost importance, in particular with regard to the number of posted workers in specific employment sectors and per Member State.’ It continues, ‘the Member States and the Commission should collect and monitor such data.’

At the request of its Management Board, Eurofound mapped existing data sources available at European and Member State levels. As part of this exercise, the limitations of data currently available and existing data gaps were identified. Options were then developed that

outlined what kind of data would need to be collected to allow for better monitoring of the situation of posted workers across Europe, as well as how this information could be collected and what kind of analysis would be possible based on these improved data sources.

Chapter 1 presents the complex regulatory framework that applies to posted workers in the EU, while Chapter 2 delivers an overview of existing national level data sources. Chapter 3 highlights data gaps and challenges. In Chapter 4, we discuss some options regarding the kind of data that could be collected and ways to address these gaps and challenges.

## Methodology

This report is based on a mapping exercise conducted using Eurofound’s Network of European Correspondents (NEC). A questionnaire with two main sections was distributed to correspondents in all Member States in April 2018. The first section comprised questions to map the declaration systems available in each Member State and the type of data they provide. This included a mapping of the efforts for data checking undertaken in each Member State. The second section was more exploratory, reporting on key stakeholders’ views and positions on what kind of information would be required to achieve an efficient monitoring of posted workers.

The input from these questionnaires was analysed by a research team contracted by Eurofound. The contractors combined multidisciplinary experiences in the field of intra-EU posting of workers. HIVA (KU Leuven) and IRIS (Ghent University) have been partners in the Network of Experts on statistics on free movement of workers, social security coordination and fraud and error (Network Statistics FMSSFE) since 2013. This network was set up by the European Commission to collect and analyse quantitative and qualitative data on the coordination of social security systems. The members of the research team were able to draw on their experience as partners in the network and the resulting understanding of the weaknesses and strengths of the existing monitoring process. The research team also contributed a description of the complex legal situation regarding the posting of workers in the EU, as well as proposals for possible solutions for improving the monitoring of posted workers. Eurofound further developed the latter, and all elements are presented in this consolidated report.





# 1 Regulatory framework

This chapter describes the main legal provisions pertaining to the posting of workers, with a focus on how they support and facilitate the collection of reliable and comparable data on the incidence of posting and the characteristics and working conditions of posted workers.

## Intra-EU posting: Differences in notion and scope

There are two main domains of regulation applicable to situations where workers are posted: social security regulations (Regulation (EC) No 883/2004, also referred to as the Basic Regulation and Regulation (EC) No 987/2009), and the Posting of Workers Directive (Directive 96/71/EC). They have different objectives, and therefore different scopes. The notion of a ‘posted’ worker is used in both the Basic Regulation and in the Posting of Workers Directive (Table 1). However, each set of rules give a different meaning to the notion, implying different consequences and rights.

The Posting of Workers Directive, adopted in 1996, refers to the ‘worker’ who carries out his or her work in the ‘territory of a Member State other than the State in which

he or she normally works’. Under the Basic Regulation, it is the ‘employer’ that normally carries out its activities in the Member State of origin, and who is the target of the regulation.

Because of the differences in scope, persons may be regarded as ‘posted’ under the Basic Regulation, but not under the Posting of Workers Directive. For instance, self-employed persons fall under Article 12(2) of the Basic Regulation but are not covered by the Posting of Workers Directive.

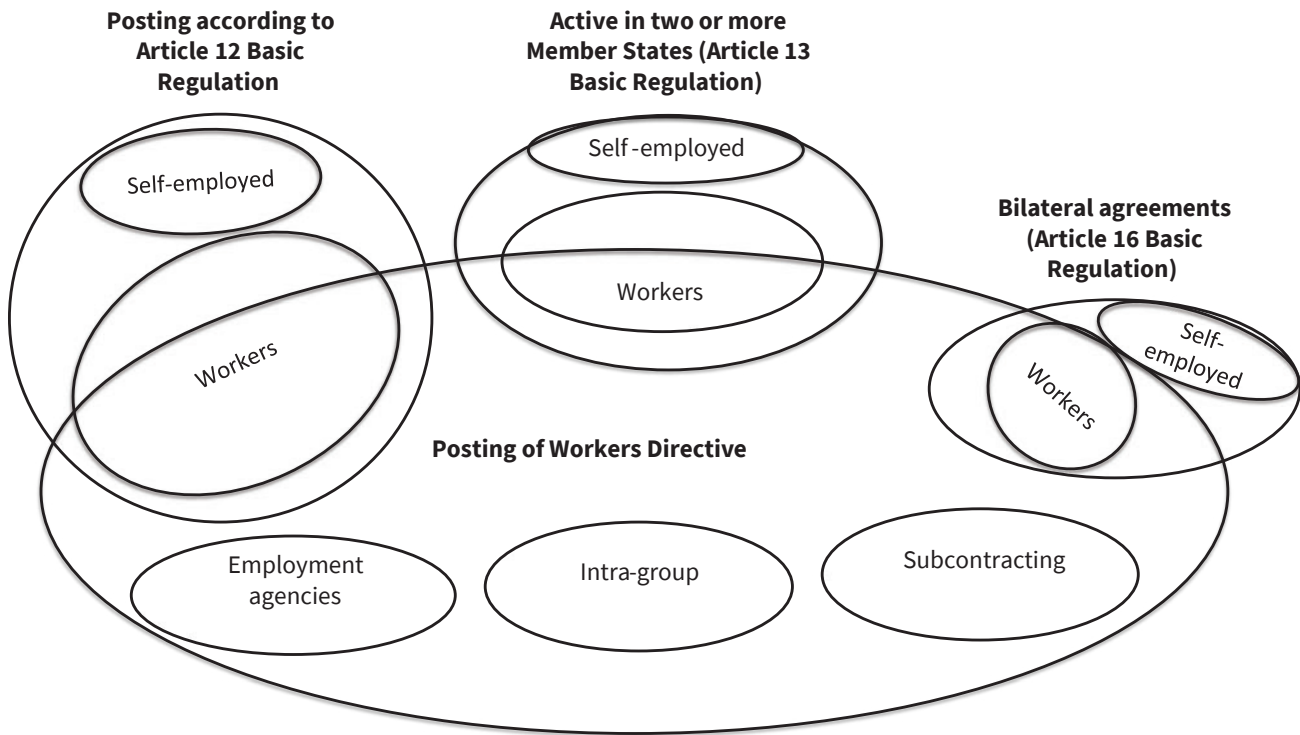
Figure 1 illustrates this. It shows that the Posting of Workers Directive distinguishes between three types of postings, namely posting between a company and a service provider (including subcontracting arrangements), posting of workers within the same group (‘intra-group posting’) and posting through temporary work agencies. However, while workers covered by the Posting of Workers Directive are also considered to be posted according to the Basic Regulation, it is not systematically the case the other way around. For instance, self-employed persons temporarily working in another Member State – considered posted according to Article 12(2) of the Basic Regulation – are not covered by the Posting of Workers

**Table 1: The notion of ‘posted worker’ under social security regulations and the Posting of Workers Directive**

Basic Regulation (Regulation (EC) No 883/2004)	Posting of Workers Directive (Directive 96/71/EC)
<p>Article 12(1) – Posted worker:</p> <p><i>A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there, and who is posted by that employer to another Member State to perform work on that employer’s behalf [...] provided that the anticipated duration of such work does not exceed twenty-four months and that he is not sent to replace another person.</i></p>	<p>Article 1(3) – Posted worker:</p> <p><i>A worker who, for a limited period, carries out his or her work in the territory of a Member State other than the State in which he or she normally works (Article 2), provided that the undertakings, in the framework of transnational provision of services, take one of the following transnational measures:</i></p> <ul style="list-style-type: none"> <li>(a) <i>post workers to the territory of a Member State on their account and under their direction, under a contract concluded between the undertaking making the posting and the party for whom the services are intended, operating in that Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or</i></li> <li>(b) <i>post workers to an establishment or to an undertaking owned by the group in the territory of a Member State, provided there is an employment relationship between the undertaking making the posting and the worker during the period of posting; or</i></li> <li>(c) <i>being a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of a Member State, provided there is an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting (Article 1(3)).</i></li> </ul>
<p>Article 12(2) – Self-employed person:</p> <p><i>A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State [...] provided that the anticipated duration of such activity does not exceed twenty-four months.</i></p>	<p>Self-employed persons are not covered by Directive 96/71/EC.</p>
<p>Article 13 – Workers active in two or more Member States.</p>	<p>Workers active in two or more Member States may fall under the terms and conditions of the Posting of Workers Directive, and thus be considered as ‘posted workers’.</p>

Source: De Wispelaere et al, 2018

Figure 1: Differences in scope between Regulation (EC) No 883/2004 and Directive 96/71/EC



Source: De Wispelaere et al, 2018

Directive, which considers only employees. Article 13 of the Basic Regulation also addresses the situation of workers habitually working simultaneously, or alternatively, in two or more Member States, either under the same statute or under different statutes (employee in one country, self-employed in another), on behalf of one or more employers. The Posting of Workers Directive, however, does not, as such, consider these ‘multi-activity’ situations.

The differences in defining posting situations are not surprising, given the different aims of the legislation. The Posting of Workers Directive addresses the employment conditions of the workers. Its main aim has been ‘the completion of the internal market by enabling the free movement of persons and services within a climate of fair competition, by providing protection to the rights of posted workers’ (see recitals 1, 2, 3 and 5 of the Posting of Workers Directive).

Article 3 lays down the core mandatory rules of the host Member State that should be respected by the posting undertaking. The employment terms and conditions in question can be laid down by law, regulation or administrative provision, and/or by collective agreements or arbitration awards declared universally or otherwise applicable, in accordance with Article 3(8), insofar as they concern building work. The core mandatory terms and conditions cover, among other things, maximum work periods, minimum rest periods, minimum paid annual holidays and minimum rates of pay. On the other hand, coordination rules at the European level, as laid down in

the Coordination Regulations (Regulation (EC) 883/2004 and Regulation (EC) 987/2009) have been established to protect the social security rights of persons moving within Europe.

A fundamental principle of the rules is that persons to whom the regulations apply are subject to the legislation of a single Member State only Article 11(1) of the Basic Regulation). In the case of (self-) employed persons, the legislation of the Member State where the activity is carried out usually applies (‘*lex loci laboris*’ – Article 11(3)(a) of the Basic Regulation). Yet, in some very specific situations, criteria other than the actual place of employment are applied. Such situations include, among others, the posting of workers to another Member State for a temporary period.

In the event of intra-EU posting, according to Article 12 of the Basic Regulation, the social security legislation of the Member State of origin continues to apply for up to 24 months. The purpose of the provisions of Article 12 of the Basic Regulation is to avoid administrative burdens for workers, employers and social security institutions (see recital 1 of Decision No. A2 of 12 June 2009).

The differences between the Basic Regulation and the Posting of Workers Directive in defining posting are of relevance with regard to the provision of data. Calculations based on definitions following the Basic Regulation will lead to different numbers than calculations applying the scope of the Posting of Workers Directive.

## Enforcement Directive 2014/67/EU

To strengthen enforcement of the 1996 Posting of Workers Directive, the Commission proposed the Enforcement Directive (2014/67/EU), which was adopted on 15 May 2014. The main objective of the Enforcement Directive is the protection of the rights of posted workers, whilst facilitating the free provision of services and promoting fair competition between service providers.

Several measures are foreseen to reach that aim. The Enforcement Directive achieves the following.

- Gives Member States tools to fight the abuse and circumvention of the posting directives.
- Puts in place the obligation to guarantee better access to information, such as through single official national websites.
- Improves administrative cooperation through using the Internal Market Information System (IMI), especially through facilitating the enforcement of financial administrative penalties and fines cross-border.
- Increases workers' protection in subcontracting chains.

As regards the collection of information on posted workers, Article 9(1) of the Enforcement Directive is of specific relevance. It stipulates that Member States 'may impose an obligation on service providers established in another Member State to make a simple declaration to the responsible national competent authorities'. An overview of the national declaration tools that Article 9(1) refers to will be provided in Chapter 2.

The Enforcement Directive also addresses the effective monitoring of compliance with the provision of the Posting of Workers Directive. Recital 7 states that 'the implementation and monitoring of the notion of posting should be improved'. To accomplish this, several provisions on access to information (Chapter II – Article 5), administrative cooperation (Chapter III – Articles 6 to 8) and monitoring compliance (Chapter IV – Articles 9 to 10) are defined. These provisions also impact on the completeness and reliability of data on the number, characteristics and conditions of posted workers.

## Evolution in social security and posting regulation

### Revision of the Posting of Workers Directive

The Commission presented a proposal for a revision of the Posting of Workers Directive on 8 March 2016. One of the key targets of the proposal was to ensure the 'equal pay' principle: 'the same pay for the same work in the same place'.

The Directive (EU) 2018/957 brought about various changes compared to Directive 96/71/EC. This included the following.

- The previous reference to 'minimum rates of pay' in Article 3(1)(c) of the Posting of Workers Directive has

been replaced by 'remuneration', thus broadening the notion of 'wage' applicable to posted workers.

- New rules concerning the duration of the posting period (12 months, plus 6 months for a motivated notification) were introduced. Beyond this period, posted workers should be covered by 'all the applicable terms and conditions of employment', hence going above and beyond the 'hard core' of Article 3(1).
- Temporary work agencies should guarantee to posted workers the same terms and conditions that apply to temporary workers hired in the Member State where the work is carried out.

Directive (EU) 2018/957, amending Directive 96/71/EC on the Posting of Workers, also reinforces the importance of access to information. Recital 21 states that 'the constituent elements of remuneration, and other terms and conditions of employment under national law or collective agreements as referred to in this Directive, should be clear and transparent to all undertakings and posted workers.' To reach this goal, the Directive makes it compulsory for Member States to publish the terms and conditions of employment, including the constituent elements of remuneration, on a single official national website (referred to in Article 5 of the Enforcement Directive). Regarding collecting information about the working conditions of posted workers, including their remuneration, these single official national websites can be an important source of information.

The extent to which Member States comply with the obligation to deliver clear and transparent information on their terms and conditions of employment, and create a single official national website (Article 5), is shown in Table 2, below. It should be noted that in many Member States, the set-up and development of national websites is a work in progress, and some aspects may improve over time.

### Proposal to revise EU legislation on social security coordination

In December 2016, the European Commission presented a proposal to revise the EU legislation on social security coordination (European Commission, 2016). The Commission's proposal is still under discussion in both the European Parliament and the Council.

Regarding social security coordination for posted workers, the proposal does not contain changes to the conditions. The social security legislation of the Member State of origin would thus continue to apply for up to 24 months.

The Commission proposal also aims to clarify the relationship between the Regulations and the Posting of Workers Directive by proposing some changes to Article 12 of the Basic Regulation. Furthermore, it strengthens the administrative tools on social security coordination at the disposal of the host Member State in the fields of information exchange, cross-border cooperation between competent authorities and verification of the social security status of workers. This helps to prevent potentially unfair practices or abuse. The proposal also grants new

implementing powers to the Commission, in accordance with Article 291 of the Treaty on the Functioning of the European Union (TFEU), to further specify a uniform approach to the issuance, verification and withdrawal of the Portable Document A1 (see Chapter 2). It will be able to determine, assisted by the Administrative Commission, the

situations in which the document shall be issued, and the elements to be verified before the document can be issued (see Article 76a of the proposal). Finally, it is important to note that on several occasions, the proposal refers to the relevant EU data protection rules when collecting, transmitting or processing personal data.

**Table 2: Websites providing information on the terms and conditions of work (for nationals and/or posted workers)**

	Link to the websites	Link published on the Commission's website?	Information available in English?	Link to the declaration requirement?
Austria	<a href="http://www.postingofworkers.at/cms/Z04/Z04_10/home">http://www.postingofworkers.at/cms/Z04/Z04_10/home</a>	✓	✓	✓
Belgium	<a href="http://www.employment.belgium.be/defaultTab.aspx?id=6224">http://www.employment.belgium.be/defaultTab.aspx?id=6224</a>	✓	✓	X
Bulgaria	<a href="http://www.gli.government.bg/en/page.php?c=57">http://www.gli.government.bg/en/page.php?c=57</a>	✓	✓	X
Croatia	<a href="http://www.mrms.hr/posting/posted-workers/">http://www.mrms.hr/posting/posted-workers/</a>	✓	✓	✓
Cyprus	<a href="http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/page1k_en/page1k_en?OpenDocument">http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/page1k_en/page1k_en?OpenDocument</a>	✓	✓	X
Czechia	<a href="http://www.suip.cz/english-documents/">http://www.suip.cz/english-documents/</a>	✓	✓	X
Denmark	<a href="https://workplacedenmark.dk/en/">https://workplacedenmark.dk/en/</a>	✓	✓	✓
Estonia	<a href="https://ti.ee/en/foreign-worker/posted-workers-and-rental-work/registration/">https://ti.ee/en/foreign-worker/posted-workers-and-rental-work/registration/</a>	✓	✓	X
Finland	<a href="http://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker">http://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker</a>	✓	✓	✓
France	<a href="https://travail-emploi.gouv.fr/droit-du-travail/detachement-des-salaries/article/in-brief-posting-of-employees">https://travail-emploi.gouv.fr/droit-du-travail/detachement-des-salaries/article/in-brief-posting-of-employees</a>	✓	✓	X
Germany	<a href="http://www.zoll.de/EN/Private-individuals/Work/Minimum-conditions-of-employment/minimum-conditions-of-employment_node.html">http://www.zoll.de/EN/Private-individuals/Work/Minimum-conditions-of-employment/minimum-conditions-of-employment_node.html</a>	✓	✓	X
Greece	<a href="https://www.ypakp.gr/index.php?ID=U0FoMq42iTkxvV53">https://www.ypakp.gr/index.php?ID=U0FoMq42iTkxvV53</a>	✓	X	✓
Hungary	<a href="http://ommf.gov.hu/index.php?akt_menu=551">http://ommf.gov.hu/index.php?akt_menu=551</a>	✓	✓	✓
Ireland	<a href="https://www.workplacelrelations.ie/en/what_you_should_know/employment_types/posted%20workers/posted_workers.html">https://www.workplacelrelations.ie/en/what_you_should_know/employment_types/posted%20workers/posted_workers.html</a>	✓	✓	✓
Italy	<a href="http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng">http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng</a>	✓	✓	✓
Latvia	<a href="http://www.lm.gov.lv/eng/index.php?option=com_content&amp;view=article&amp;id=83473">http://www.lm.gov.lv/eng/index.php?option=com_content&amp;view=article&amp;id=83473</a>	✓	✓	✓
Lithuania	<a href="https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=50">https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=50</a>	✓	✓	✓
Luxembourg	<a href="http://itm.lu/en/home/detachement.html">http://itm.lu/en/home/detachement.html</a>	✓	X	✓
Malta	<a href="https://dier.gov.mt/en/Employment-Conditions/Posting%20of%20Workers%20in%20Malta/Pages/Information.aspx">https://dier.gov.mt/en/Employment-Conditions/Posting%20of%20Workers%20in%20Malta/Pages/Information.aspx</a>	✓	✓	✓
Netherlands	<a href="https://www.government.nl/documents/publications/2016/10/20/factsheet-terms-of-employment-posted-workers-in-the-eu-act">https://www.government.nl/documents/publications/2016/10/20/factsheet-terms-of-employment-posted-workers-in-the-eu-act</a>	✓	✓	X
Poland	<a href="https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland">https://www.biznes.gov.pl/en/firma/doing-business-in-poland/posting-of-workers-to-poland</a>	✓	✓	✓
Portugal	<a href="http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Postingofworkers/Paginas/default.aspx">http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Postingofworkers/Paginas/default.aspx</a>	✓	✓	✓
Romania	<a href="https://www.inspectiamuncii.ro/informatii-detasare-transnationala">https://www.inspectiamuncii.ro/informatii-detasare-transnationala</a>	✓	X	✓

Table 2: Continued

	Link to the websites	Link published on the Commission's website?	Information available in English?	Link to the declaration requirement?
Slovakia	<a href="https://www.ip.gov.sk/working-conditions-of-workers-posted-to-the-territory-of-slovak-republic-2/">https://www.ip.gov.sk/working-conditions-of-workers-posted-to-the-territory-of-slovak-republic-2/</a>	X	✓	X
Slovenia	<a href="http://www.napotenidelavci.si/en/">http://www.napotenidelavci.si/en/</a>	✓	✓	✓
Spain	<a href="http://www.mitramiss.gob.es/es/sec_trabajo/debes_saber/desplazamiento-trabajadores-eng/desplazamiento/index.htm">http://www.mitramiss.gob.es/es/sec_trabajo/debes_saber/desplazamiento-trabajadores-eng/desplazamiento/index.htm</a>	✓	✓	✓
Sweden	<a href="https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/this-is-posting/">https://www.av.se/en/work-environment-work-and-inspections/foreign-labour-in-sweden/Posting-foreign-labour-in-sweden/this-is-posting/</a>	X	✓	X
United Kingdom	<a href="https://www.gov.uk/working-abroad/posted-workers">https://www.gov.uk/working-abroad/posted-workers</a>	✓	✓	X

Source: *Your Europe*, 2019



## 2 Overview of available data on posted workers

There are two application/declaration processes that can provide information on posting situations. The two processes have different objectives and cover different issues.

- **According to Article 19 of the Implementing Regulation (EC) No 883/2004**, a certificate – the Portable Document A1 (PD A1) – must be provided by the competent Member State at the request of the employer or the person concerned, when placed to work abroad.
- **According to Article 9(1) of the Enforcement Directive (2014/67/EU)**, Member States may impose an obligation for a foreign service-provider to make a declaration to the competent institutions in the host Member State.

### Portable Document A1 (PD A1 form)

The PD A1 is a certificate that concerns the social security legislation that applies to a person. It confirms that the holder is affiliated to the social security system of the Member State that has issued the form and has no obligations to pay contributions in another Member State. The requirement to issue a PD A1, in a variety of cases, is laid down in the Coordination Regulations, which aim to protect the social security rights of persons moving within the EU. However, these regulations do not provide detailed rules about the process leading to the issuing of the PD A1. While this reflects the fact that the Member States retain the right to organise procedures concerning social security, it also provides a large margin of discretion for the design and implementation of procedures<sup>1</sup>.

The Administrative Commission lays down the structure, content, format and detailed arrangements for the exchange of documents (European Commission, 2010a). Regulation (EC) No 987/2009 sets out the information policy affecting the granting of a PD A1 (see, for example, Articles 15 and 19 of the Implementing Regulation), but does not provide detailed rules about the process that leads to issuing a certificate. As a result, there is a great variety of processes in place across EU Member States, which differ in some of their main features. It is important to note that the Administrative Commission recently adopted a Recommendation A1 (European Commission, 2018) concerning the issuance of PD A1 forms. It suggests including certain authentication features to prevent the risk of forgery. The recommendation also contains a standardised set of questions for Member States to use before issuing a PD A1, to guide competent institutions in assessing the relevant facts.

### Authorising institution

There is a great variety of practices among Member States regarding the application procedure for a PD A1.

Table 3 gives an overview of the situation in Member States regarding:

- the institutions issuing a PD A1
- whether the application procedure is organised at a central or local level
- the application procedure
- the relevant websites and/or applications forms

It should be noted that information presented in Table 3 was collected between September 2018 and September 2019. Some aspects may be changed or modified over time.

<sup>1</sup> The quality of the procedure is of great importance, because the document issued by the competent institution of one Member State must be accepted by the institutions of the receiving Member State, to comply with the Coordination Regulations.

Table 3: Summary of the application procedure for a PD A1, by Member State

	Authority issuing PDA1	Central/ local granting	Where to find the PDA1 application form	Links to relevant websites and/or application forms
Austria	The responsible Social Insurance provider	Central	An electronic version can be found on the web page of the Main Association of Social Insurance Providers and its subunits (i.e. the individual Social Insurance Providers).	<a href="http://dienstgeber.wgkk.at/cdscontent/?portal=wgkkportal&amp;contentid=10007.724707&amp;viewmode=content&amp;portal:componentid=gtn62618133-73a0-4d33-bf75-6454d6286505">http://dienstgeber.wgkk.at/cdscontent/?portal=wgkkportal&amp;contentid=10007.724707&amp;viewmode=content&amp;portal:componentid=gtn62618133-73a0-4d33-bf75-6454d6286505</a>
Belgium	For employees and civil servants: National Social Security Office (NSSO) For self-employed persons: National Institute for the Social Security of the Self-employed (NISSE)	Central	The applicant can fill out the application electronically. A paper questionnaire can be requested.	Employees and civil servants: <a href="https://www.socialsecurity.be/site_fr/employer/applics/gotot/index.htm#severalMemberStates">https://www.socialsecurity.be/site_fr/employer/applics/gotot/index.htm#severalMemberStates</a> <a href="https://www.socialsecurity.be/site_fr/employer/applics/gotot/gotot-gt.htm">https://www.socialsecurity.be/site_fr/employer/applics/gotot/gotot-gt.htm</a> Self-employed: <a href="http://www.inasti.be/fr/demande-declaration-concernant-la-legislation-de-securite-sociale-formulaire-a1?_ga=2.39132195.1274301230.1529302589-979124352.1522913304">http://www.inasti.be/fr/demande-declaration-concernant-la-legislation-de-securite-sociale-formulaire-a1?_ga=2.39132195.1274301230.1529302589-979124352.1522913304</a> <a href="https://rproxy.rsvz-inasti.fgov.be/eDossier_AanvraagA1/doAanvraagA1.faces?lang=fr">https://rproxy.rsvz-inasti.fgov.be/eDossier_AanvraagA1/doAanvraagA1.faces?lang=fr</a> <a href="http://www.nap.bg/page?id=510">http://www.nap.bg/page?id=510</a>
Bulgaria	National Revenue Agency	Central	The form for obtaining a PD A1 can be acquired, either as an electronic version, or on paper.	<a href="http://www.mirovinsko.hr/UserDocsImages/tiskanice/ZAHTJEV%20A1_IZASLANJE%20ZAPOSLENI.pdf">http://www.mirovinsko.hr/UserDocsImages/tiskanice/ZAHTJEV%20A1_IZASLANJE%20ZAPOSLENI.pdf</a>
Croatia	The Croatian Pension Insurance Institute (Hrvatski zavod za mirovinsko osiguranje) ( <a href="http://www.mirovinsko.hr">www.mirovinsko.hr</a> )	Central	The PD A1 form, 'A1 Potvrda', is available at the website of the Croatian Pension Insurance Institute.	
Cyprus	Social Insurance Services of Cyprus	Local	The application forms for the issue of a PD A1 are available on the website of the Social Insurance Services of Cyprus. Printed versions of these application forms can also be obtained at the local outlets of the Social Insurance Services in every city.	The application forms (employer's application, employee's application, and self-employed person's application) can be downloaded in Greek from the website of the Social Insurance Services at: <a href="http://www.mlsi.gov.cy/mlsi/sid/sidv2.nsf/page52_gr/page52_gr?OpenDocument">http://www.mlsi.gov.cy/mlsi/sid/sidv2.nsf/page52_gr/page52_gr?OpenDocument</a>



Czechia	The District Social Security Administration office (DSSA – Czech abbreviation OSZZ) of the Czech Social Security Administration (CSSA – Czech abbreviation ČSSZ)	Local	Clients are required to complete a separate application form via the CSSA website for the issuance of the A1 CZ form.	<a href="http://www.cssz.cz/cz/tiskopisy/evropska-unie.htm">http://www.cssz.cz/cz/tiskopisy/evropska-unie.htm</a>
Denmark	Udbetaling Danmark is the authority responsible for the collection, disbursement and control of many public benefits	Central	Even though national posted workers are not systematically registered with a PD A1, it is still possible for Danish citizens to use the form. The form can be accessed electronically, and is registered at Udbetaling Danmark.	<a href="https://www.borger.dk/danskere-i-udlandet/Arbejde-i-udlandet/International-social-sikring">https://www.borger.dk/danskere-i-udlandet/Arbejde-i-udlandet/International-social-sikring</a> <a href="https://indberet.virk.dk/myndigheder/stat/Udbetaling_Danmark/Social_sikring_ved_beskaeftigelse_i_udlandet#tab2">https://indberet.virk.dk/myndigheder/stat/Udbetaling_Danmark/Social_sikring_ved_beskaeftigelse_i_udlandet#tab2</a> <a href="https://indberet.virk.dk/myndigheder/stat/Udbetaling_Danmark/Social_sikring_ved_beskaeftigelse_i_udlandet#tab3">https://indberet.virk.dk/myndigheder/stat/Udbetaling_Danmark/Social_sikring_ved_beskaeftigelse_i_udlandet#tab3</a>
Estonia	The Estonian National Social Insurance Board (ENSIB)	Central	The form is available on the web page of the Estonian National Social Insurance Board (ENSIB), where it can be accessed as a Word document. This document can be signed digitally and sent by email to ENSIB or signed by hand and sent by regular post. The form is also (and preferably) available for submitting through the official state portal ( <a href="http://www.eesti.ee">www.eesti.ee</a> ), which offers public state services digitally.	<a href="http://www.sotsiaalkindlustusamet.ee/et/sotsiaalkindlustus-elis/sotsiaalkindlustus-euroopa-liidus#Kuidas%20taotled%20A1%20t%C3%B5endit">http://www.sotsiaalkindlustusamet.ee/et/sotsiaalkindlustus-elis/sotsiaalkindlustus-euroopa-liidus#Kuidas%20taotled%20A1%20t%C3%B5endit</a>
Finland	The Finnish Centre for Pensions (Eläketurvakeskus)	Central	Employers and employees can apply for the PD A1 through an online application, as well as with a paper form. The self-employed can only apply by filling out a printable form (as of May 2018).	<a href="https://www.etk.fi/en/pension-services/insurance-while-working-abroad/applying-a1-certificate/">https://www.etk.fi/en/pension-services/insurance-while-working-abroad/applying-a1-certificate/</a>
France	Local social security funds of the general regime of social security (CPAM) and of the social security of the agriculture sector (MSA). It can also be delivered by different specific regimes, such as for the maritime sector, mining companies, or the Parisian public urban transport company (RATP)	Local	An employer who wants to post an employee to another Member State, or a self-employed person, must fill in a form (S 3208 'Maintien au régime français de sécurité sociale d'un travailleur salarié détaché hors du territoire français'). One part of the form must be sent to the local social security body (CPAM or MSA), and the second part must be provided to the posted worker. After the local social security body agrees, it will provide the employer with a certificate A1. A copy must be given to the posted worker.	<a href="https://www.ameli.fr/sites/default/files/formulaires/215/s3208.pdf">https://www.ameli.fr/sites/default/files/formulaires/215/s3208.pdf</a>

(Continued)

Table 3: Continued

	Authority issuing PDA1	Central/ local granting	Where to find the PDA1 application form	Links to relevant websites and/ or application forms
Germany	Article 11(3)(b), 11(4), 12 Regulation (EC) 883/2004: For workers: competent health insurers For self-employed persons without health insurance: German Pension Fund (Deutsche Gesetzliche Rentenversicherung-Bund) For self-employed professionals with health insurance: joint insurance association of professionals (Arbeitsgemeinschaft Berufsständischer Versorgungseinrichtungen) For persons working in more than one Member State: National Association of Health Insurers (GKV-Spitzenverband)	Local	Applications in respect of Article 12(1) and 16 of Regulation (EC) 883/2004 are done electronically (by use of certified electronic payroll programmes or sv.net). For others, forms are provided (see link in next column).	<a href="https://www.dvka.de/de/arbeitgeber_arbeitnehmer/antraege_finden/antraege_finden.html">https://www.dvka.de/de/arbeitgeber_arbeitnehmer/antraege_finden/antraege_finden.html</a> For information on applications in respect of Article 12(1) and 16 of Regulation (EC) 883/2004, see explanatory note: <a href="https://www.gkv-datenaustausch.de/media/dokumente/arbeitgeber/entsendung/anlagen_gg_2/GG_A1_Anlage_1_01072019.pdf">https://www.gkv-datenaustausch.de/media/dokumente/arbeitgeber/entsendung/anlagen_gg_2/GG_A1_Anlage_1_01072019.pdf</a>
Greece	For employees: Social Insurance Institute (IKA-ETAM) of the place of employment For self-employed legal professionals, engineers and health professionals: Unified Insurance Fund of Independently Employed (ETAA) in the place where they are based For other self-employed people: Social Security Organisation for the Self-Employed (OAAE) in the place where they are based For farmers: Agricultural Insurance Organisation (OGA) of the place of work For seafarers: Mariners' Retirement Fund	Local	The form needs to be requested from the insurance institution in charge (see second column).	<a href="http://www.ika.gr/">http://www.ika.gr/</a>
Hungary	Competent district offices of the National Health Insurance Fund of Hungary (NEAK) (by county)	Local	The A1 form can be accessed via an application form available online: Igénylőlap Kiküldetési igazoláshoz.	Workers: <a href="http://www.neak.gov.hu/data/cms1013079/NEU.72.G.doc">http://www.neak.gov.hu/data/cms1013079/NEU.72.G.doc</a> Self-employed: <a href="http://www.neak.gov.hu/data/cms1013079/NEU.72.G.doc">http://www.neak.gov.hu/data/cms1013079/NEU.72.G.doc</a> Active in two or more Member States: <a href="http://www.neak.gov.hu/data/cms1013081/NEU.73.G.doc">http://www.neak.gov.hu/data/cms1013081/NEU.73.G.doc</a>
Ireland	Department of Employment Affairs and Social Protection (DEASP)	Central	Department of Employment Affairs and Social Protection website.	<a href="https://www.welfare.ie/en/Pages/International-Postings.aspx">https://www.welfare.ie/en/Pages/International-Postings.aspx</a>

Italy	The National Institute of Social Security (INPS)	Local	The electronic version of the form is available online, on the website of the National Institute of Social Security (INPS). An employer who wants to post an employee to another Member State will have to file a request to INPS through the dedicated website (Portale delle Agevolazioni (ex-DiResCo)). Other types of workers can apply for the A1 form.	<a href="https://www.inps.it/bussola/VisualizzaDOC.aspx?VirtualURL=/messaggi/Messaggio%20numero%20218%20del%202020-01-2016.htm&amp;ilDDalPortale=48802">https://www.inps.it/bussola/VisualizzaDOC.aspx?VirtualURL=/messaggi/Messaggio%20numero%20218%20del%202020-01-2016.htm&amp;ilDDalPortale=48802</a>
Latvia	State Social Insurance Agency (VSAA) (through the Payment Bureau – Iemaksu birojs) via communication channel iemaksas@vsaa.lv	Central	Information about the procedure for obtaining a PD A1 (referred to as an ‘A1 certificate’ in Latvia) is available from the relevant state institution (VSAA). PD A1 are issued based on application forms specified for three different cases. Electronic access to application forms is available at a dedicated website.	Application: <a href="https://www.vsaa.gov.lv/noderigi/iesniegumu-veidlapas/starptautisko-pakalpojumu-iesniegumi/pakalpojumiem-eiropas-savieniba/">https://www.vsaa.gov.lv/noderigi/iesniegumu-veidlapas/starptautisko-pakalpojumu-iesniegumi/pakalpojumiem-eiropas-savieniba/</a> More information: <a href="https://www.vsaa.lv/pakalpojumi/pakalpojumi-eiropas-savieniba/darbs-cita-es-valsti-a1-sertifikats">https://www.vsaa.lv/pakalpojumi/pakalpojumi-eiropas-savieniba/darbs-cita-es-valsti-a1-sertifikats</a>
Lithuania	Foreign Payment Service (of the State Social Insurance Fund Board (Sodra))	Central	Application forms for the PD A1 for employers and self-employed persons are available on the website of Sodra, including examples of pre-filled forms. Employers are requested to provide the application form for PD A1 as well as to fill in forms covering details about the employee(s) and the employer. These forms are submitted via the dedicated web portal of the registered insurers (i.e. employers, who are obliged to provide social insurance); the self-employed can also submit paper copies by post.	Forms: <a href="http://www.sodra.lt/lt/situacijos/informacija-draudejams/a1-pazymejimo-isdavimas/dokumentai-kurtuos-reikia-pateikti-sodrai-formos">http://www.sodra.lt/lt/situacijos/informacija-draudejams/a1-pazymejimo-isdavimas/dokumentai-kurtuos-reikia-pateikti-sodrai-formos</a> Insurers portal (of the State Social Insurance Fund): <a href="https://draudejai.sodra.lt/sodra-login/">https://draudejai.sodra.lt/sodra-login/</a>
Luxembourg	CCSS: Centre Commun de la Sécurité Sociale (Common Centre of Social Security)	Central	The document can be accessed via an electronic link.	<a href="https://www.ccss.lu/fileadmin/file/ccss/PDF/Formulaires/Salaries/DEMET_F.pdf#pageMode=bookmarks">https://www.ccss.lu/fileadmin/file/ccss/PDF/Formulaires/Salaries/DEMET_F.pdf#pageMode=bookmarks</a>
Malta	The International Relations Unit, Department of Social Security (DSS) (which falls under the responsibility of the Ministry for the Family, Children’s Rights and Social Solidarity)	Central	The PD A1 can be filled in online on the Department of Social Security website.	<a href="https://www.gov.mt/en/Services-And-Information/eforms/Pages/Landing%20Pages/Request%20for%20Entitlement%20to%20remain%20insured%20in%20Malta.aspx">https://www.gov.mt/en/Services-And-Information/eforms/Pages/Landing%20Pages/Request%20for%20Entitlement%20to%20remain%20insured%20in%20Malta.aspx</a>
Netherlands	The Sociale Verzekeringsbank (Social Security Bank, SVB)	Central	The form can be downloaded from the website of SVB. Employers can send the form to SVB by post. It can also be filled in online, on SVB’s TWinternet or via My SVB (via DigiD).	<a href="https://www.svb.nl/nl/id/ubent-werkgever/a1-certificatie-of-coverage-aanvragen">https://www.svb.nl/nl/id/ubent-werkgever/a1-certificatie-of-coverage-aanvragen</a>

(Continued)

Table 3: Continued

	Authority issuing PD A1	Central/ local granting	Where to find the PD A1 application form	Links to relevant websites and/ or the application forms
Poland	Social Security Institution (Zakład Ubezpieczeń Społecznych, ZUS), local ZUS offices	Local	All forms can be downloaded from the page of the Social Security Institution (ZUS).	The page of the Social Security Institution ZUS contains links to several forms: <a href="https://www.zus.pl/-/zaswiadczenie-a1">https://www.zus.pl/-/zaswiadczenie-a1</a> . The PD A1 form can be found at <a href="https://www.zus.pl/documents/10182/18428/A1-7.0.pdf/debc0c1-9b01-4e80-a4c6-103e8acb3f17">https://www.zus.pl/documents/10182/18428/A1-7.0.pdf/debc0c1-9b01-4e80-a4c6-103e8acb3f17</a>
Portugal	Institute for Social Security (Instituto da Seguranga Social, ISS)	Central	The forms to request the PD A1 are available on the website of the Institute for Social Security (Instituto da Seguranga Social – ISS). They must be submitted, together with the supporting documents, in the ISS regional offices (Centros distritais) or in the ISS offices of the Autonomous Regions of Madeira and of Azores.	Posting: <a href="http://www.seg-social.pt/documents/10152/39117/RV_1020_DGSS/a78292b8-86fc-4486-b4a1-cf346125149c">http://www.seg-social.pt/documents/10152/39117/RV_1020_DGSS/a78292b8-86fc-4486-b4a1-cf346125149c</a> Active in two or more member states: <a href="http://www.seg-social.pt/documents/10152/39103/RV_1018_DGSS/d478f02b-8f85-4812-a5f5-67d8e7e9974f">http://www.seg-social.pt/documents/10152/39103/RV_1018_DGSS/d478f02b-8f85-4812-a5f5-67d8e7e9974f</a>
Romania	The National House for Public Pensions – International Relations Directorate/Casa Națională de Pensii Publice (CNPP)	Central	Electronic versions of the applications for a PD A1, for all type of beneficiaries, are available on CNPP’s website.	<a href="https://www.cnpp.ro/documentul-portabil-a1">https://www.cnpp.ro/documentul-portabil-a1</a>
Slovakia	The form is issued centrally. The applicant submits the completed form to a Branch Office of the Social Insurance Agency, according to the place of residence of the enterprise or the place of residence of the applicant	Local	Electronic application forms are available on the website of the Social Insurance Agency. Paper versions of the application are also given out at branch offices of the Social Insurance Agency.	<a href="https://www.socpoist.sk/2149-menu/554495">https://www.socpoist.sk/2149-menu/554495</a>
Slovenia	The Health Insurance Institute of Slovenia (Zavod za zdravstveno zavarovanje Slovenije, ZZZS)	Central	An employer or a self-employed person can submit the application through the portal e-Vem, managed by the Ministry of Public Administration. When workers or self-employed persons carry out activities in two or more Member States, the employer or self-employed person must send a completed application by email. Employers who carry out activities in international road transport may send their applications via email to: <a href="mailto:dolocanje.zakonodaje@zzzs.si">dolocanje.zakonodaje@zzzs.si</a> . Those who carry out assembly and servicing may send their applications via email to: <a href="mailto:monterji.serviserji.A1@zzzs.si">monterji.serviserji.A1@zzzs.si</a> .	<a href="http://www.napotenidelavci.si/en/">http://www.napotenidelavci.si/en/</a> <a href="https://zavarovanec.zzzs.si/wps/portal/portal/azos/podstrani_kategorije_z_o/opravljanje_dela_dejavnosti_eu">https://zavarovanec.zzzs.si/wps/portal/portal/azos/podstrani_kategorije_z_o/opravljanje_dela_dejavnosti_eu</a> <a href="https://zavarovanec.zzzs.si/wps/wcm/connect/ae0e2b6b-b61e-4e46-ac97-ac14188078f0/Vloga+13.%C4%8DL.pdf?MOD=AJPERES">https://zavarovanec.zzzs.si/wps/wcm/connect/ae0e2b6b-b61e-4e46-ac97-ac14188078f0/Vloga+13.%C4%8DL.pdf?MOD=AJPERES</a>

Spain	The General Social Security Treasury (Tesorería General de la Seguridad Social, TGSS)	Local	<p>Those who work in 'other' activities may send their applications via email to: <a href="mailto:dolocanje.zakonodaje@zzzs.si">dolocanje.zakonodaje@zzzs.si</a>.</p> <p>The PD A1 is issued by the TGSS Administrations or by their Provincial Offices.</p> <p>The PD A1 form cannot be downloaded. It can be requested by employers, employees or self-employed using the TA 300 form (in pdf format). Alternatively, it is possible to use the internet to apply for a PD A1 through electronic registration or using a digital (identity) certificate.</p>	<a href="http://www.seg-social.es/wps/portal/wss/internet/Inicio">http://www.seg-social.es/wps/portal/wss/internet/Inicio</a>
Sweden	The Swedish Social Insurance Agency (Försäkringskassan)	Central	<p>The A1 form can be located on the website of Försäkringskassan, the Swedish Social Insurance Agency.</p>	<a href="https://www.forsakringskassan.se/wps/wcm/connect/fa2f1866-2531-4ecb-a4cb-735f77416fda/FK6220_004_F_001Beg%C3%A4ran+Intyg+A1E10+eller+konventionsintyg.pdf?MOD=AJPERES&amp;CVID=">https://www.forsakringskassan.se/wps/wcm/connect/fa2f1866-2531-4ecb-a4cb-735f77416fda/FK6220_004_F_001Beg%C3%A4ran+Intyg+A1E10+eller+konventionsintyg.pdf?MOD=AJPERES&amp;CVID=</a>
United Kingdom	Her Majesty's Revenue and Customs (HMRC)	Central	<p>Electronic versions only/no hard copies are downloadable. Forms must be filled out on a page-by-page basis on the HMRC website.</p>	<a href="https://public-online.hmrc.gov.uk/lc/content/xfafirms/profiles/forms.html?contentRoot=repository:///Applications/NICs_iForms/1.0/CA3821i&amp;template=CA3821i.xdp">https://public-online.hmrc.gov.uk/lc/content/xfafirms/profiles/forms.html?contentRoot=repository:///Applications/NICs_iForms/1.0/CA3821i&amp;template=CA3821i.xdp</a>

**Note:** n/a = information not available.

**Source:** Eurofound Questionnaire – input from national correspondents

PDs A1 are issued either at the national level by one single institution, or at the local level by several institutions. The central approach seems to prevail.

The authority issuing the PD A1 is, in most cases, the national body responsible for social security, social insurance, or similar. In the cases of Bulgaria and the UK, however, it is the revenue department.

The systems in place to grant PD A1 certificates also vary in terms of their degree of centralisation. In many countries, the request for the certificate is addressed to, and then granted by, a central body or institution. This is the case in Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Sweden and the UK. In some countries, the process is decentralised, and conducted by the local branches of the responsible institution. This is the case in Cyprus, Czechia, France, Germany, Greece, Hungary, Poland, Slovakia and Spain.

Few Member States have a mixed system, where the issuing level will depend on the nature of the request. In some countries where the certificate is normally issued by local institutions, the central institution delivers the PD A1 based on 'Article 16' requests (Regulation (EC) No 987/2009). It is frequently the case that in those national social security systems that are based on professional status, each scheme sets and follows its own issuing procedure, including the application form, IT tools and staff. As research underlines (European Commission, 2018), 'the risk here is a lack of harmonisation among the issuing institutions of the same country, which may even imply that the PD A1 is issued by unauthorised institutions. A lack of homogeneity within a country may, in the end, be a source of additional administrative burden. There is no uniform procedure to apply and grant the PD A1. Sometimes practices may even vary among the local institutions. It sometimes constitutes an administrative burden for both employers and administrations that the registration process is decentralised or not digitalised. This might result in a delayed registration.'

### Box 1: Centralised versus decentralised processes

'Centralisation is said to be a good way to address complicated cases and to preserve a uniform application and interpretation of the rules of conflict of law. The system whereby PDs A1 are issued at local level may be less reliable to a certain extent, as it can be questioned whether all institutions apply the rules in the same way, but it can bring more flexibility and may be more in tune with the objectives of efficiency, active assistance, rapid delivery and accessibility. A system of local level issuing may tackle fraud more efficiently; it may also facilitate communication with the applicant and the understanding of the facts necessary to assess whether the certificate should be issued or denied.'

**Source:** *De Wispelaere and Pacolet, 2018a*

Differences also exist surrounding the application process. In many Member States, an electronic procedure to apply for a PD A1 is implemented.

In some countries, including Belgium, Finland, Germany, Latvia, Malta, and the Netherlands, the request can be done through an online application. In others, the form is available online to be downloaded, filled in and then submitted by email or post. In many cases, a choice is given between using an electronic or a paper-based request form. Greece is the only country where the request form for the PD A1 is not available in electronic format. Depending on the method used in the Member States, there are different concerns about fraud or falsification of PD A1 applications.

The fact that the application and issuing procedure is organised at a central level by means of an electronic procedure has its merits, regarding the collection and processing of the data.

### Information collected

There is no uniformity, in terms of the information applicants must provide. All national procedures require identification of the employer (name, taxpayer number, legal address, contact details etc.) and of the worker (name, citizenship, ID card number, date of birth, address,

employment status, type of contract etc.), as well as the planned duration of the posting.

However, some countries go further and request details. This could include the following.

- Job description, which must be included in Austria, Croatia, Cyprus, Czechia (for the self-employed), Finland ('nature of work'), Hungary, Ireland, Latvia, Lithuania, Portugal, Romania and Slovenia.
- Working hours (or the percentage breakdown of hours worked in individual countries during the whole of the posting, for workers posted in more than one country) in Croatia, Czechia, Ireland, Lithuania, and Romania.
- Remuneration (or an estimation of the remuneration earned in different countries, in case of posting in two countries or more) in Czechia, Ireland, Latvia (when working in two or more countries), Lithuania and Romania.

In some Member States, information collected through the application process for a PD A1 is also used to check whether all the conditions for a proper posting situation are fulfilled.

The Posting of Workers Directive specifies that several conditions must be fulfilled simultaneously. The posting must be of a temporary nature, and the employer must

**Table 4: PD A1 forms – Information requested related to posting and ways to provide it, by Member State**

	Requested in the PD A1 form	Competent institution asks for relevant documents	Cross-checks with other databases/registers	Random checks	Not checked
Genuine activity in the country of origin	DE, FR, HU, IE, NL, PL, SI	CZ, EL	BE, BG, CY, EE, ES, FI, HR and SK	BG, IT	AT, DK, SE, UK
Employment relationship	DE, FR, HU, IE, SI	CY, EL, ES	BE, BG, CZ, EE, FI, HR and SK	BG, IT	AT, DK, SE, UK
Replacement of another posted worker	CZ, DE, FI, FR, HU, IE, NL, PL, SI, UK	CY, EL, SK, ES*	EE, PT	BG, IT	AT, DK, SE

**Note:** \*Checks of previous PD A1 forms issued to the employer.

**Source:** Contributions from the Network of Eurofound Correspondents, April–August 2018

have genuine activity in the Member State of origin. There must also be a direct relationship between the posting employer and the posted worker, and no replacement of another posted worker.

Table 4 shows the Member States that use the PD A1 to request information on the above issues, the countries that require additional documents or cross-checks with other databases, those that follow-up with random checks, and finally, the countries that do not collect or verify this information at all.

## National declaration in host Member States

The second source of information on posting situations is the national declaration requested for incoming posted workers across Member States.

Article 9(1)(a) of the Enforcement Directive stipulates that Member States ‘may impose an obligation on service providers established in another Member State to make a simple declaration to the responsible national competent authorities.’ There is no uniform template for national declarations. Member States are free to use such a declaration, as well as deciding on the type of information they request. However, requiring information that goes beyond the items listed in Article 9(1)(a) must be justified and proportionate, and necessary for factual controls. Declaration procedures vary across Member States.

### Declaration procedure

Most Member States have introduced such a declaration tool for incoming postings and the workers concerned (Table 5). Only the United Kingdom (except in Gibraltar) and EFTA member Norway have not. In Czechia, the requirement to declare used to be directed at the receiving Czech client. This was changed through an amendment (Federal Assembly of the Czech and Slovak Federative Republic (2019)), of Section 87 of the Employment Act which came into effect on 31 July 2019, and now places

responsibility in the hands of the posting undertaking. The declaration system in the Netherlands should be operational by 2019.

Even though the Enforcement Directive, and thus the stipulation regarding a declaration tool, only pertains to employees, some Member States also require the declaration of incoming self-employed persons. This is the case in Belgium, Denmark, the Netherlands, Portugal and Slovenia.

Some specificity is related to the sector of activity. France, Germany and Spain report additional declaration requirements applicable to posting undertakings that provide services in the construction sector.<sup>2</sup> In the international transport sector, national regulations specify the conditions for the declaration of workers and self-employed persons, either generally, or for ‘cabotage’ activities<sup>3</sup>. The different rules regarding the declaration of self-employed posted workers and the requirements for specific sectors in the Member States impact on the comparability of data collected through national declaration tools.

As can be observed in Table 5, which includes a short description of the declaration tool as well as a link to the relevant website for EU/EFTA countries, there is no uniform declaration procedure applied by the Member States.

An online declaration seems the most favoured, with more than half of the Member States having adopted it. This includes Austria, Belgium, Denmark, France, Finland, Germany, Hungary, Italy, Luxembourg, Malta, the Netherlands, Poland, Slovakia, Slovenia and Sweden, as well as EFTA countries Iceland and Switzerland. All main receiving Member States (Austria, Belgium, France and Germany) have implemented an online declaration system.

Notification of the posting of workers to Bulgaria, Cyprus, Greece and Lithuania occurs by post, and in Croatia, Estonia and Portugal, by email. In both Czechia and Ireland, the registration can be performed either by email or post.

<sup>2</sup> Such requirements also exist in Belgium. For instance, foreign companies that post personnel in Belgium for carrying out construction work must adhere to the sector-related loyalty stamp scheme as set down in the collective labour agreement. To do this, they must create an account with the OPOC (Office Patronal d’Organisation et de Contrôle des régimes de sécurité d’existence).

<sup>3</sup> Cabotage – national transport by foreign hauliers – falls under International transport activities, which include ‘cross-trade’ activities, for example, the carriage of goods from country A to country B by a haulier from country C.

Table 5: Overview of national systems for declaring foreign posted workers

Country	Implemented	For self-employed also	Law	Brief description	Link to relevant website	Declaration method
Austria	Yes	No	The Anti-Wage and Social Dumping Act (Lohn- und Sozialdumping Bekämpfungsgesetz, LSDB-G)	Companies in the EU, the EEA and Switzerland need to register and notify the planned posting of workers to Austria with the Central Coordinating Agency (ZKO), prior to the posting activity, by filling in and sending a ZKO3 form for all the workers they are planning to post.	Webpage of the Federal Ministry of Finance Notification form for posted workers: <a href="https://www4.formularservice.gv.at/formularserver/user/formular.aspx?pid=fe66cedb506e495c94b3e826701443e5&amp;pn=B461f73088ab946fe9bd1d1cce573d81a&amp;lang=en">https://www4.formularservice.gv.at/formularserver/user/formular.aspx?pid=fe66cedb506e495c94b3e826701443e5&amp;pn=B461f73088ab946fe9bd1d1cce573d81a&amp;lang=en</a> Notification form for posted workers in the mobile sector: <a href="https://www4.formularservice.gv.at/formularserver/user/formular.aspx?pid=fe66cedb506e495c94b3e826701443e5&amp;pn=B0d66e914664149109b455bce26ceca4a&amp;lang=en">https://www4.formularservice.gv.at/formularserver/user/formular.aspx?pid=fe66cedb506e495c94b3e826701443e5&amp;pn=B0d66e914664149109b455bce26ceca4a&amp;lang=en</a>	Online
Belgium	Yes	Yes	Programme law (I) 27 December 2006 (Chapter VIII, title IV – prior notification posted workers and self-employed persons) Royal Decree 20 March 2007	An obligation to file a Limosa declaration has been in force since 1 April 2007. See also: <a href="https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html">https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html</a>	<a href="https://limosa.be/">https://limosa.be/</a>	Online
Bulgaria	Yes	No	Newly adopted legislative texts are written within the Labour Code (Article 121a) and within the Ordinance on the Conditions and Procedure for Posting of Employees within the Framework of Provision of Services (the Ordinance was published in the State Gazette on 6 January 2017)	Form published on the website of the General Labour Inspectorate Executive Agency, and submitted on paper to the territorial office of the General Labour Inspectorate Executive Agency.	<a href="http://www.gli.government.bg/en/page.php?c=211&amp;d=2767">http://www.gli.government.bg/en/page.php?c=211&amp;d=2767</a>	Post
Croatia	Yes	No	On 27 October 2017, the Croatian Ministry of Labour and Pension System published in the Official Gazette its decision/act based on Article 89 paragraph 4 of the 'Aliens act' (Official Gazette 130/11).	Posting declaration should be submitted to the Labour Inspectorate via email to the following address: <a href="mailto:postingdeclaration.inspektorat@mrms.hr">postingdeclaration.inspektorat@mrms.hr</a> Find out more: <a href="https://mup.gov.hr/aliens-281621/stay-and-work/posted-workers/281690">https://mup.gov.hr/aliens-281621/stay-and-work/posted-workers/281690</a>	n/a	Email



Cyprus	Yes	No	As provided by Article 11(1) of the Posting of Workers Law (Law 63(I)/2017), foreign companies who post their employees to Cyprus are obliged to provide a notification to the competent authority (Labour Department) – notification should be made prior to the start of the posting.	There is no application form for registration available. Companies need to provide a letter notifying the responsible authority. The letter should contain all relevant information, as required by the Posting of Workers Law.	<a href="http://www.mrms.hr/wp-content/uploads/2014/01/posting-declaration-form.doc">www.mrms.hr/wp-content/uploads/2014/01/posting-declaration-form.doc</a>	Post
Czechia	No	No	Act No. 435/2004 Coll. on employment, Section 87 imposes an obligation on employers to inform the relevant regional branch of the Labour Office on the engagement of employees who are citizens of the EU/EEA and Switzerland, including those who are posted to Czechia based on an employment contract with a foreign employer.	The information obligation concerning posted employees is fulfilled via the completion of the relevant form by the Czech client, and its submission to the regional branch of the Labour Office.	<a href="http://portal.mpsv.cz/sz/zahr_zam/tiskopisy/informace_o_nastupu.pdf">http://portal.mpsv.cz/sz/zahr_zam/tiskopisy/informace_o_nastupu.pdf</a>	Email/post
Denmark	Yes	Yes	Since May 2008, it has been mandatory for foreign service providers to register on the RUT register (Bekendtgørelse om Register for Udenlandske Tjenesteydere (RUT – registret)).	The RUT is the Danish government's official register to report a foreign service. Foreign service providers (employees and self-employed) working in Denmark must register on the RUT.	<a href="https://indberet.virk.dk/myndigheder/stat/ERST/Register_of_Foreign_Service_Providers_RUT">https://indberet.virk.dk/myndigheder/stat/ERST/Register_of_Foreign_Service_Providers_RUT</a>	Online
Estonia	Yes	No	Declaration to the Labour Inspectorate about workers posted to Estonia (based on the Working Conditions of Employees Posted to Estonia Act, § 5). This took effect on 17 December 2016, when the amendments to the Working Conditions of Employees Posted to Estonia Act were introduced. The changes to the act were related to the transposition of the Directive 2014/67/EU.	The form is available on the web page of the Labour Inspectorate. The information can also be sent without the form via email, if all the relevant information is provided as specified on the web page.	<a href="http://www.ti.ee/en/organisation-contacts/the-labour-inspectorate/posted-workers/registration/">http://www.ti.ee/en/organisation-contacts/the-labour-inspectorate/posted-workers/registration/</a>	Email
Finland	Yes	No	Act on Posting Workers (447/2016)	From 1 September 2017, foreign employers posting workers to Finland must notify the Finnish Occupational Health and Safety Authorities (Työsuojeluviranomainen, OSH) before the work commences. For the construction sector, this obligation must always be fulfilled. For other sectors, a notification must only be submitted if the posting lasts five days or more.	<a href="http://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker/reporting-duty;https://anon.ahtp.fi/_layouts/15/FormServer.aspx?OpenIn=Browser&amp;XsnLocation=/Lomakkeet/Ilmoitus_tyoc3%b6ntekij%c3%b6iden_l%cc3%a4hettoc3%a4misesest%c3%a4_en.xsn&amp;Source=https://anon.ahtp.fi/sivut/submitted.aspx">http://www.tyosuojelu.fi/web/en/employment-relationship/posted-worker/reporting-duty;https://anon.ahtp.fi/_layouts/15/FormServer.aspx?OpenIn=Browser&amp;XsnLocation=/Lomakkeet/Ilmoitus_tyoc3%b6ntekij%c3%b6iden_l%cc3%a4hettoc3%a4misesest%c3%a4_en.xsn&amp;Source=https://anon.ahtp.fi/sivut/submitted.aspx</a>	Online

(Continued)

Table 5: Continued

Country	Implemented	For self-employed also	Law	Brief description	Link to relevant website	Declaration method
France	Yes	No	Prior to the start of work in France, the company must send a declaration of posting to the Labour Inspectorate responsible for the area in which the service is to be carried out (Labour code, Article L1262-2-1-1). It is obligatory to upload such communication onto the SPSI website (Labour code, Article 1262-2-2). The client must ensure that the declaration of posting for their provider has been made by requesting a copy (Labour code, Article L1262-4-1).	All employers based outside France with the intention of providing services in France must submit a prior declaration of the posting of their workers to the labour inspectorate branch of the place where the service is to be provided, before the posting gets underway. Information is available on the SPSI database that can be used by the labour inspectorate, as well as different public services (social security inspectorate, tax administration etc.).  No prior declaration is required for self-employed persons. They do not have to register on the SPSI website.  All employers based outside France, with the intention of providing construction services in France, need to ask for an ID card through an online declaration. Information collected is compiled into a database, managed by the Union des Caisses de France.	The registration form exists online only: <a href="http://www.sipsi.travail.gouv.fr">www.sipsi.travail.gouv.fr</a>  For construction services: Système d'information de la carte d'identification professionnelle des salariés du bâtiment et des travaux publics, SI-CIP: <a href="http://www.cartetbp.fr">www.cartetbp.fr</a>	Online
Germany	Yes	No	Foreign-domiciled employers who post one or more workers to Germany to carry out work or to provide a service are required*, in certain sectors, to give notification of their worker(s).  * pursuant to Article 16 (of the Minimum Wage Act (Mindestlohngesetz – MiLoG), Article 18 of the Posting of Workers Act and Article 17b of the Temporary Workers Act in conjunction with Section 1 of the Ordinance on Minimum Wage Reporting Requirements pursuant to the Minimum Wage Act, Posted Workers Act and Provision of Temporary Workers Act (Mindestlohnmeldeverordnung – MiLoMeldV).	The notification portal can be accessed via the German Customs website <a href="http://www.zoll.de">www.zoll.de</a> (under the 'Special Online Applications' section), or via the link provided. Employers employing posted workers in those sectors that are mentioned in the SchwarzArbG, and in those sectors which are covered by extended sectoral minimum wage agreements (extended under the Posted Workers Act), are obliged to fill in notifications on the who, when, and where of the employment of posted workers.  Construction industry: SOKA BAU is the agreed scheme for posted workers in the construction industry.	<a href="https://www.meldeportal-mindestlohn.de">https://www.meldeportal-mindestlohn.de</a>  Construction industry: <a href="https://secure.soka-bau.de/online dienste_inter/">https://secure.soka-bau.de/online dienste_inter/</a>	Online

Greece	Yes	No	To ensure effective monitoring of compliance with the provisions of Presidential Decree 219/2000 and Presidential Decree 101/2016.	Undertakings that post workers to the territory of Greece have an obligation to submit several documents, drawn up in Greek, at the latest at the commencement of the service provision and irrespective of its duration, to the competent departments of the Labour Inspection Body of the place where services are provided.	<a href="http://www.ypakp.gr/uploads/files/3720.pdf">http://www.ypakp.gr/uploads/files/3720.pdf</a>	Post
Hungary	Yes	Yes	Employers must declare workers posted to the territory of Hungary to the relevant district Labour Authority, according to Act LXXV of the 1996 law on labour inspection.	Declarations of foreigners posted in Hungary are collected by district Labour Authorities (county level).	Declaration of posting, labour authority online: <a href="http://www.ommf.gov.hu/index.php?akt_menu=552">http://www.ommf.gov.hu/index.php?akt_menu=552</a>	Online
Ireland	Yes	No	European Union (Posting of Workers) Regulations 2016: S.I. 412 of 2016, overseen by the WRC posted worker liaison unit.	The service provider must provide certain information which will enable the WRC to monitor posting activity and ensure compliance with posting rules (see also <a href="https://www.workplacerelations.ie/en/what_you_should_know/employment_types/posted%20workers/">https://www.workplacerelations.ie/en/what_you_should_know/employment_types/posted%20workers/</a> ).	The registration form is found here: <a href="http://www.workplacerelations.ie/en/Publications_Forms/Form-of-Declaration.pdf">http://www.workplacerelations.ie/en/Publications_Forms/Form-of-Declaration.pdf</a>	Email/post
Italy	Yes	No	According to Legislative Decree 136/2016 transposing the EU Directive 2014/67/EU, an employer posting workers to Italy must submit a mandatory advanced declaration, according to the procedure defined by the Ministerial Decree of 10 August 2016. The advanced declaration must be submitted through an online procedure by midnight of the day preceding the start of the posting period. Any modifications must be communicated within five days of the event. Since 1 March 2017, a specific declaration is available for cabotage operations in road transport, for both goods and passengers.	The Legislative Decree enacted in 2016 strengthens the rules to prevent illicit conducts with reference to workers posted in Italy by companies established in other EU Member States. New rules concerning prior notification of posting are established, with sharpened sanctions in case of non-compliance. A special website has been set up, where foreign companies can find information about the conditions of employment they have to guarantee to their posted workers. It is divided in specific sections, outlining the most relevant obligations of the posting company, mandatory information to be provided, the basic working conditions to be applied to posted workers and essential information concerning how to deal with the rules established by Italian collective agreements.	<a href="http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng">http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng</a>	Online

(Continued)

Table 5: Continued

Country	Implemented	For self-employed also	Law	Brief description	Link to relevant website	Declaration method
Latvia	Yes	No	Labour law, Section 14.1. describes an obligation for an employer who sends employees to work in Latvia, regarding the provision of information from relevant state institutions about the posting activity. The law does not require a special registration and monitoring system for the registering of received posted workers, and such a system does not exist. Updated information about the received posted workers, however, should be regularly provided for VDI and VSAA. According to the Labour law, an employer who posts an employee to perform work in Latvia has a duty, prior to the posting, to inform the State Labour Inspectorate via a written statement in the state official language (Latvian), regarding such posted employee.	Employers send the requested information by email, and it is forwarded to the relevant regional division of VDI.	<a href="http://vdi.gov.lv/en/contacts">http://vdi.gov.lv/en/contacts</a>	Email
Lithuania	Yes	No	Article 109 of the Labour Code of the Republic of Lithuania requires a foreign employer (based in another Member State) who temporarily posts a worker to perform construction work in the territory of the Republic of Lithuania, and for a period of more than 30 days, to give advance notice to the territorial office of the State Labour Inspectorate where the work will be performed. This should include information on the conditions established in points 1-7 of Article 108(2) of the Labour Code, which will apply to the worker: <ul style="list-style-type: none"> <li>○ maximum working time and minimum rest periods</li> <li>○ the duration of minimum paid annual leave</li> <li>○ minimum wage, including extra pay for overtime, night work, and work on days off and holidays</li> </ul>	Procedure for the provision of the information about posted workers, approved by order of the Minister of Social Security and Labour of the Republic of Lithuania No A1-I169, 16 June 2005 (hereinafter - 'Procedure'), establishes the system for the provision of information regarding posted workers, as well as the guarantees for such workers, for territorial offices of the Lithuanian State Labour Inspectorate under the Ministry of Social Security and Labour.  An employer posting a worker from an EU Member State, or from another state, to temporarily perform work in the territory of the Republic of Lithuania for longer than 30 days, or to perform construction works, shall submit a report in Lithuanian to the State Labour Inspectorate territorial office of the place in which the work is taking place. This will cover the guarantees applied for posted workers.	<a href="https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=50">https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=50</a>	Post

Luxembourg	Yes	No	<ul style="list-style-type: none"> <li>○ the terms of employment for temporary workers</li> <li>○ health and safety at work</li> <li>○ safety at work for persons under the age of 18 and employees who are pregnant, who recently gave birth, or who are breastfeeding</li> <li>○ prohibition of discrimination at work</li> </ul> <p>This is in accordance with the Republic of Lithuania Law on Construction and the procedure established by the Minister of Social Security and Labour of the Republic of Lithuania.</p>	<p>Where the worker is being posted to temporarily perform work functions at more than one enterprise owned by natural or legal persons, the report shall state each natural/legal person accepting the posted worker. This is to be submitted by post or by fax not later than five days prior to commencement of posted work.</p>	The registration must be done via the electronic platform of the ITM: <a href="https://guichet.itm.lu/edetach/">https://guichet.itm.lu/edetach/</a>	Online
Malta	Yes	No	<p>The registration of posted workers according to Articles L 142-2 and 142-3 of the Labour Code is done by the ITM (Inspection du Travail et des Mines/Inspectorate of Labour and Mines).</p> <p>Employers posting workers (employees) to Malta are required to notify the Department for Industrial and Employment Relations (DIER) prior to the date of posting. This notification is compulsory and is regulated by the Posting of Workers in Malta Regulations, 2016.</p>	<p>A form must be filled in by the firm that is responsible for the posting of the workers.</p>	<p>The registration must be done via the electronic platform of the ITM: <a href="https://eforms.gov.mt/pdfforms.aspx?fid=wes072e">https://eforms.gov.mt/pdfforms.aspx?fid=wes072e</a></p>	Online
			<p>The 'Notification of a Posted Worker to Malta' form can be found on the Department for Industrial and Employment Relations (DIER) website. The form must be supplemented by the following information:</p> <ul style="list-style-type: none"> <li>○ the contract of employment between the foreign service provider and the posted worker</li> <li>○ a copy of the identification document of the posted employee</li> <li>○ documents containing information specific to the posting</li> </ul> <p>The form must be accompanied by a copy of the employee's working licence (in the case of a TCN posted employee from an EU/EEA country).</p>			

(Continued)

Table 5: Continued

Country	Implemented	For self-employed also	Law	Brief description	Link to relevant website	Declaration method
Netherlands	Yes	Yes	2016 law on the terms of employment of posted workers in the European Union (Dutch acronym: WagwEU)  Also relevant: amendment to the 'Wet allocatie arbeidskrachten door intermediairs' (Waadi) (Placement of Personnel by Intermediaries Act). Prescribes that foreign intermediaries who post employees in the Netherlands must be registered in the Business Register of the Dutch Chamber of Commerce.	Companies posting workers have the following obligations: <ul style="list-style-type: none"> <li>to provide information to the inspectorate for the enforcement of the WagwEU</li> <li>to report their business in the Netherlands in advance (and include why, when, and with whom they are working)</li> <li>to keep certain documents as a record, either digitally or at the place of work (payslips, time reports, etc.), in case of an inspection</li> <li>to have a contact person for the SZW Inspectorate</li> </ul> All Dutch and foreign intermediaries (whether or not they are posting employees abroad), as well as intermediaries posting employees in the Netherlands, need to register on the Business Register of the Chamber of Commerce. In the entry field, 'business activities' of the online registration form intermediaries need to fill in 'providing workers'.	<a href="https://www.rijksoverheid.nl/onderwerpen/buitenlandse-werknemers-arbeidsvoorwaarden-buitenlandse-werknemers">https://www.rijksoverheid.nl/onderwerpen/buitenlandse-werknemers-arbeidsvoorwaarden-buitenlandse-werknemers</a>  <a href="https://www.kvk.nl/inschrijven-en-wijzigen/inschrijven-bij-de-kamer-van-koophandel/moet-ik-mijn-bedrijf-inschrijven/in--of-uitlenen-van-arbeidskrachten/">https://www.kvk.nl/inschrijven-en-wijzigen/inschrijven-bij-de-kamer-van-koophandel/moet-ik-mijn-bedrijf-inschrijven/in--of-uitlenen-van-arbeidskrachten/</a>	Online
Poland	Yes	No	Clause 24, sections 3 and 4 of the Act on the Posting of Workers in the Framework of the Provision of Services <a href="http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160000868">http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20160000868</a>	Since 18 June 2016, a form called 'An employer's statement on the posting of a worker to the territory of the Republic of Poland' (Oświadczenie pracodawcy delegującego pracownika na terytorium RP) should be submitted to the Chief Labour Inspector (Główny Inspektor Pracy, GIP, the central authority of PIP) by employers from EU/EEA countries and third countries that post their workers to Poland.	Electronically: <a href="https://www.biznes.gov.pl/firma/cudzoziemcy/chce-delegowac-pracownikow-do-polski/proc_1328-oswiadczenie-o-delegowaniu-pracownika">https://www.biznes.gov.pl/firma/cudzoziemcy/chce-delegowac-pracownikow-do-polski/proc_1328-oswiadczenie-o-delegowaniu-pracownika</a> Via post: <a href="https://www.pip.gov.pl/pl/f/v/155136/Oswiadczenie%20pracodawcy%20delegujacego%20pracownika%20na%20terytorium%20RP.pdf">https://www.pip.gov.pl/pl/f/v/155136/Oswiadczenie%20pracodawcy%20delegujacego%20pracownika%20na%20terytorium%20RP.pdf</a>	Post/online

Portugal	Yes	Yes	Law 29/2017 of 30 May (Article 9) establishes that the employer is obliged to communicate to the Authority for Working Conditions (Autoridade para as Condições de Trabalho – ACT) the posting, until the beginning of the provision of services.	The Authority for Working Conditions (Autoridade para as Condições de Trabalho – ACT) has a form on its website that must be sent to the ACT email address. In addition, communication must include: <ul style="list-style-type: none"> <li>○ the identity of the service provider</li> <li>○ the number and identification of the workers to be posted</li> <li>○ identification of the liaison person</li> <li>○ the estimated duration and estimated dates for the start and end of the posting</li> <li>○ the address of the workplace</li> <li>○ the nature of the services justifying the posting</li> </ul>	http://www.act.gov.pt/(pt-PT)/CentroInformacao/ DestacamentoTrabalhadores/ Postingofworkers/Paginas/default.aspx	Email
Romania	Yes	No	The Model Declaration on the Transnational Posting of Employees was approved by Government Decision 337/2017, published in the Official Gazette no. 411 of 31 May 2017.	The Labour Inspection (Inspectia Muncii) provides a PDF form on its website which can be downloaded and filled in in physical format only. The original form must be either presented at the counter, or sent by post, at one of the 42 Territorial Labour Inspection's offices. The declaration must be submitted in Romanian only (although there is an English version available on the site) no later than 1 day prior to the start of activity of the posted worker.	<a href="https://www.inspectiamuncii.ro/documents/66402/1518590/ModelDeclaratie-en.pdf/976f2580-2efd-4553-8382-df76328dca5b">https://www.inspectiamuncii.ro/documents/66402/1518590/ModelDeclaratie-en.pdf/976f2580-2efd-4553-8382-df76328dca5b</a>	Post
Slovakia	Yes	No	The Enforcement Directive was transposed to the Slovak legal system by national law Act No. 351/2015 – under § 4 par. 1 of the act, the posting employer (posting workers to the territory of Slovakia to perform works/provide services) is obliged to notify the National Labour Inspectorate of the basic data on the posting, including the names of employees and a relevant contact person.	National Labour Inspectorate (Narodny inspektorat prace – NIP) <a href="https://www.ip.gov.sk/posting-of-workers/">https://www.ip.gov.sk/posting-of-workers/</a> .	<a href="https://www.ip.gov.sk/posting-of-workers/">https://www.ip.gov.sk/posting-of-workers/</a> <a href="https://www.nip.gov.sk/?form&amp;lang=en">https://www.nip.gov.sk/?form&amp;lang=en</a>	Online/ email
Slovenia	Yes	Yes	Transnational Provision of Services Act	Employment Service of Slovenia (Zavod Republike Slovenije za zaposlovanje, ZRSZ) collects registrations forms.	<a href="https://www.ess.gov.si/delodajalci/zaposlovanje_in_delo_tujcev/spletna-prijava-dela-tujcev/-spletna-prijava-dela-tujcev-prijava-izvajanje-storitiev-delodajalca-s-sedezem-v-drzavi-clanici-eu-egp-ali-svicarski-konfederaciji?cl=35&amp;cl=35">https://www.ess.gov.si/delodajalci/zaposlovanje_in_delo_tujcev/spletna-prijava-dela-tujcev/-spletna-prijava-dela-tujcev-prijava-izvajanje-storitiev-delodajalca-s-sedezem-v-drzavi-clanici-eu-egp-ali-svicarski-konfederaciji?cl=35&amp;cl=35</a>	Online

(Continued)

Table 5: Continued

Country	Implemented	For self-employed also	Law	Brief description	Link to relevant website	Declaration method
Spain	Yes  Yes (limited to the construction sector)	No  No	Royal Decree-Law 9/2017 of 27 May 2017 has completed the transposition of Directive 2014/67/EU.  Any employer that intends to post workers to Spain must notify the posting, prior to commencement and irrespective of its duration, to the labour authority of the Autonomous Community where the services are to be provided. There are some legal specificities regarding Temporary Work Agencies (TWA) and the construction sector.	There is no need to notify the posting if the duration is not greater than eight days, except in the case of TWA. In the case of a TWA, the notification of the posting must include confirmation that the legal requirements of the sending country are satisfied to temporarily place its contracted workers at the disposal of other undertakings.  Construction: in the case of construction companies posting workers to Spain, it is required (in addition to the requirements applied to all companies) that companies are registered on the 'Registro de Empresas Acreditadas' (Registry of Accredited Companies) in the region where the user company is based. This is not a registry of posted workers, but of companies that have been, or will be, posting construction workers to Spain. As of 26 August 2008, companies that hire or subcontract any work must prove that their contractor companies or subcontractors are registered on the Registry, by requesting a certificate of registration.	<a href="http://www.empleo.gob.es/es/sec_trabajo/debes_saber/desplazamiento-trabajadores-eng/desplazamiento/index.htm#section6">http://www.empleo.gob.es/es/sec_trabajo/debes_saber/desplazamiento-trabajadores-eng/desplazamiento/index.htm#section6</a>	The procedure to notify the posting is determined by each Autonomous Community (regional government). It is normally carried out via the internet, using specific forms at regional level. The notification can also be submitted at the regional offices.
Sweden	Yes	No	The Swedish Posting of Workers Act (SPW, 1999:678). Since 2013, foreign employers who post workers to Sweden for more than five days must notify the Swedish Work Environment Authority.	The foreign employer is obliged to report postings (individuals) to the Swedish Work Environment Authority (see also <a href="https://www.av.se/en/posting/">https://www.av.se/en/posting/</a> ).	<a href="http://posting.av.se/Default.aspx">http://posting.av.se/Default.aspx</a>	Online
United Kingdom	No	No	n/a	n/a	n/a	n/a

Source: Eurofound questionnaire – input from national correspondents.



In all host Member States, the explanation of how to make a declaration is made available in their official language(s), as well as in (an)other language(s), particularly English. According to the Enforcement Directive, host Member States can ask for a declaration in one of their official languages, or in another language accepted by them. Most Member States offer the option to submit a declaration in English.

### Information requested

According to Article 9, the simple declaration should contain ‘the relevant information necessary, in order to allow factual controls at the workplace.’

This may include, among other things, the following requested information:

- the identity of the service provider
- the anticipated number of clearly identifiable posted workers
- the identity of the person to liaise with the competent authorities in the host Member State in which the services are provided and to send out and receive documents and/or notices
- the identity of the contact person acting as a representative through whom the relevant social partners may seek to engage the service provider in collective bargaining within the host Member State, in accordance with national law and/or practice, during the period in which the services are provided
- the anticipated duration, envisaged beginning and end date of the posting
- the address(es) of the workplace
- the nature of the services justifying the posting

An overview of the information requested by the various national declaration systems is presented in Table 6.

Most Member States simply follow Article 9 stipulations and request information on the identity of the service provider and the posted workers, the duration, the place of activity and the nature of the services.

Several Member States collect additional information, however. This could include, for example, working time (such as, Austria, Belgium, France, Greece, Ireland, Latvia, Malta and Sweden), remuneration (such as, Austria, Greece, Ireland, Latvia and Malta) or the client in the host Member State (such as, Belgium, Czechia and Estonia).

### Compliance with declaration requirements

It is important to examine to what extent the criteria for PD A1 delivery and information for national declarations are checked at the national level. This is important for determining the comprehensiveness and reliability of information collected through these tools.

Most host Member States have defined sanctions for cases in which the provision of services by incoming posted workers is not registered in their declaration tool (Table 7).

This contrasts with the policy applied when posted workers do not have a PD A1. Only Austria, France, Hungary and Slovenia have implemented sanctions if a posted worker active in the country does not have a PD A1. This is not surprising, as having a PD A1 is not a mandatory requirement before the posting takes place. A PD A1 can also be awarded with retroactive effect. The Court of Justice of the European Union (CJEU) has ruled that nothing can prevent the PD A1 from producing retroactive effects, as the possession of a PD A1 is not a constitutive condition of posting (CJEU, 1998). As a result, there are cases where PD A1 are granted retroactively, sometimes years after the occurrence of the posting. PDs A1 issued to posted workers in a given year, therefore, do not necessarily provide an accurate picture of posting in that year.

Notwithstanding the CJEU ruling, it should be noted that Article 15(1) of the Implementing Regulation states that ‘where a person pursues his activity in a Member State other than the competent Member State, the employer or the person concerned should inform the competent institution of the Member State whose legislation is applicable thereof, whenever possible in advance.’

Table 6: Information requested by national declaration systems

Country	Company	Worker	Place of activity	Employment duration	Working time	Remuneration	Job description (sector of activity)	Other elements (overview is not exhaustive)
Austria	Yes	Yes	Yes	Yes	Yes	Yes	Yes	The posting employer is responsible for providing all relevant records which document the pay (claims) of the posted worker concerned, including (but not limited to): <ul style="list-style-type: none"> <li><input type="radio"/> the work contract</li> <li><input type="radio"/> the pay slip</li> <li><input type="radio"/> the pay grade</li> <li><input type="radio"/> bank transfer statements</li> </ul>
Belgium	Yes	Yes	Yes	Yes	Yes	No	Yes (economic sector)	Data identifying the Belgian client or principal. In the case of activities within the construction industry: a declaration of the employer that a premium comparable to the specific annual premium of the Belgian construction sector (similar to a year-end premium, additional monthly salary) is or will be paid to the employees temporarily working in Belgium (newly introduced). In case of temporary staffing: the official authorisation number of the foreign temporary employment agency. The identification data of the liaison person (newly introduced).
Bulgaria	Yes	Yes	Yes	Yes	No	No	Yes	Workplace address(es). Person who can be contacted by the competent authority and will be responsible for receiving/sending official documents.
Croatia	Yes	Yes	Yes	Yes	No	No	Yes	Data of the service user.
Cyprus	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Czechia	Yes	Yes	Yes	Yes	No	No	Yes	Identification information on the employer in Czechia.
Denmark	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Estonia	Yes	Yes	Yes	Yes	No	No	Yes	Name of the service provider in Estonia and/or the sole proprietor for whom the posted employee works.
Finland	Yes	n/a	Yes	Yes	n/a	n/a	Yes	The reporting duty only includes information on the total number of posted workers in Finland. No collection of personal data on individual posted workers. If the posting lasts ten days or more, a representative of the company in Finland must be available during the posting period.

France	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Use of dangerous materials or procedures. Use of a collective lodging. Information about how meal and lodging expenses are accounted for (no costs, directly paid by the employer or reimbursement of expenses advanced by the workers in a lump-sum payment).
Germany		Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	The surname, first name, date of birth, and German address of the relevant contact in Germany (accountable domestic representative). The address where the mandatory documentation pursuant to Article 17 MiLoG and/or Article 19 of the Posted Workers Act (Arbeitnehmer-Entsendegesetz – AEntG) will be kept available for inspection (in particular, labour contracts, time sheets, pay slips, evidence of wages paid).
Greece	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a
Hungary	Yes	No	Yes	Yes	No	No	No	Yes	Yes	Yes	n/a
Ireland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a
Italy	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	n/a
Latvia	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	The client of the host Member State.
Lithuania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Other guarantees provided for the posted worker, including: <ul style="list-style-type: none"> <li>length of paid annual holidays</li> <li>health, safety and hygiene at work (appropriate condition of installations and equipment, compliance with health and safety regulations, appropriate lighting, heating and ventilation, elimination of noise, radiation, vibration and other hazardous factors detrimental to employees' health etc.)</li> <li>protective measures for young people, pregnant women, women who have recently given birth and are breastfeeding (if applicable)</li> <li>working conditions at temporary employment enterprises (if applicable)</li> </ul>
Luxembourg	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	n/a
Malta	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Number of paid holidays, vacation leave, paid sick leave and any other leave to which the employee is entitled.

(Continued)

Table 6: Continued

Country	Company	Worker	Place of activity	Employment duration	Working time	Remuneration	Job description (sector of activity)	Other elements (overview is not exhaustive)
Netherlands	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Foreign intermediaries posting employees in the Netherlands have to register in the Business Register of the Chamber of Commerce. In the field 'business activities' in the online registration form, intermediaries have to fill in 'providing workers'. <sup>1</sup> The information required includes legal entity, company (name, start date, business activities, number of employees), establishment, shareholders (if applicable) and board members (if applicable). <sup>2</sup>
Poland	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Portugal	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Romania	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Slovakia	Yes	Yes	Yes	Yes	No	No	Yes	Name, surname and address (place in Slovakia) of the person accredited to the delivery of papers, which will occur on the territory of Slovakia during the posting (contact person).
Slovenia	Yes	Yes	Yes	Yes	No	No	Yes	n/a
Spain	Yes	Yes	Yes	No	No	No	Yes	n/a
Sweden	Yes	Yes	Yes	Yes	Yes	No	Yes	n/a
United Kingdom	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Note: n/a = not applicable.

Source: Eurofound Questionnaire – input from Network of Eurofound Correspondents.

1 <https://www.kvk.nl/inschrijven-en-wijzigen/wijzigen/>; <https://www.kvk.nl/inschrijven-en-wijzigen/inschrijven-bij-de-kamer-van-koophandel-moet-ik-mijn-bedrijf-inschrijven/in--of-uitlenen-van-arbeidskrachten/>

2 [https://www.kvk.nl/download/Voorbeeld\\_KvK\\_Engelstalig\\_Uittreksel\\_tcm109-365569.pdf](https://www.kvk.nl/download/Voorbeeld_KvK_Engelstalig_Uittreksel_tcm109-365569.pdf)

Table 7: Sanctions in the event of not having a PD A1 form or for non-declaration in a country's national declaration tool

Country	For a PD A1			For national registration	
	Yes	If a correct PD A1 is not kept readily available, the controlling authority is obliged to report this violation. The jurisdictional authorities adjudicating and enforcing administrative penalties are the district administration authorities (Bezirksverwaltungsbehörden). Fines amount up to €10,000 per case.	Yes	Yes	If the employer fails to (correctly) notify and register the planned posting of a worker before the actual posting of the worker (ZK03 form) they risk an administrative fine of up to €10,000.
Austria	Yes	If a correct PD A1 is not kept readily available, the controlling authority is obliged to report this violation. The jurisdictional authorities adjudicating and enforcing administrative penalties are the district administration authorities (Bezirksverwaltungsbehörden). Fines amount up to €10,000 per case.	Yes	Yes	If the employer fails to (correctly) notify and register the planned posting of a worker before the actual posting of the worker (ZK03 form) they risk an administrative fine of up to €10,000.
Belgium	No	n/a	Yes	Yes	Article 182 of the Social Criminal Code provides a level 4 sanction, in case of non-respect of the regulation concerning the prior declaration for posted workers and posted self-employed workers. A level 4 sanction shall either be a prison sentence between six months and three years and a criminal fine between €4,800 and €48,000, or only one of these sanctions, or an administrative fine between €2,400 and €24,000.
Bulgaria	No	n/a	No	No	n/a
Croatia	No	n/a	Yes	Yes	Article 183 of the Social Criminal Code provides a level 3 sanction, in case of non-respect of the regulation concerning the obligations of the end users or clients. A level 3 sanction shall either be a criminal fine between €800 and €8,000, or an administrative fine between €400 and €4,000.
Cyprus	No	n/a	Yes	Yes	Administrative sanctions: The violation of any provision of the Posting of Workers Law (Law 63(I)/2017) including the failure of an employer to comply with the obligation to notify may result in an administrative fine of up to €10,000. In case of recurrence, the administrative fine may be up to €20,000. Sanctions imposed by courts: In the event of a conviction by a court, an offender may be sentenced to up to two years imprisonment or €50,000 fine or to both sanctions.
Czechia	No	n/a	Yes	Yes	Pursuant to Act No. 435/2004 Coll. on employment, the inspection of issues concerning posted workers (whether the employer has provided the required information on the posted foreign worker and whether the worker performs their work in accordance with this information) is performed by the Labour Inspectorate (SUIP) and the Customs Office (Section 126 of the aforementioned act). Failure to comply with the notification obligation constitutes an offence, subject to a fine of up to CZK 500,000 (€19,342.58) for legal persons pursuant to Section 140 (d) of the aforementioned Act and up to CZK 100,000 (€3,867.55) for natural persons according to Section 139 (e) of the Act. The incomplete or incorrect completion of forms providing information to the Labour Office does not constitute an offence; the Labour Office will simply request that they be properly completed.
Denmark	No	n/a	Yes	Yes	Inadequate information entered in RUT is punishable by fines to the employer. The fines are administrative, and the employer can only be fined once for each workplace. The Danish working environment imposes the fines for inadequate information in the RUT. The authorities can fine a company DKK 10,000 (€1,344) for inadequate information. It can be either late registration, no registration or wrong registrations in the register.

(Continued)

Table 7: Continued

Country	For a PD A1		For national registration	
	Yes	No	Yes	No
Estonia		No	Yes	In case the declaration is not submitted, the Labour Inspectorate may start a supervisory protocol, issue a precept and finally apply a coercive measure – penalty payment in an amount up to €9,600. On 15 July 2018, however, changes to the legislation took effect and as of then, non-registration could be considered a misdemeanour and the penalty payment in case of a legal person could be up to €32,000.
Finland		No	Yes	A negligence fee of €1,000 to €10,000 may be imposed if the company has not submitted a correct notification on posting, or if it does not have the required representative in Finland.
France	Yes	Yes	Yes	Penalties: The failure to establish a prior declaration is punishable by an administrative fine of up to €2,000 per posted employee and €4,000 in case of reiteration within one year within a total limit of €500,000 (Labour code, Article 1262-3). Furthermore, in case of such failure, the labour inspectorate or another control agent can also appeal to the competent authority to decide a suspension of the service delivery until the declaration has been done.
Germany	No	No	Yes	Non-compliance to the notification obligation of the Customs Service can be sanctioned (Act to Combat Undeclared Work (Schwarzarbeit)).
Greece	Yes	Yes	Yes	Administrative sanctions are specified under Article 24 of Law 3996/2011 for an employer who is in breach of labour law. Following a call for explanations, a fine of €300 to €50,000 can be imposed for each offence, while in the case of very serious violations, the business can be temporarily or permanently closed. Under Article 9 of Presidential Decree 219/2000, criminal sanctions of imprisonment of at least three months up to five years and/or a fine of €150 to €15,000 are specified.
Hungary	Yes	Yes	Yes	In case of non-declaration or incomplete or incorrect declaration of the foreign employer for posting in Hungary the sanction will be imposed by Labour Authority. Labour Authority will oblige the foreign employer to correct the declaration and imposes an administrative fine of HUF 30,000 (approximately €140). The fine can be imposed repeatedly, according to the Act LXXV of 1996 on labour inspection).

Ireland	No	n/a	Yes	Failure to comply with SI 412 of 2016 can lead to fines of up to €50,000.
Italy	No	n/a	Yes	Failure to submit the advance declaration is sanctioned with an administrative fine of between €150 and €500 for each posted worker, with a maximum of €150,000. Posted transport workers who do not have a copy of the advance declaration while performing cabotage in Italy are sanctioned with an administrative fine of between €1,000 and €10,000.
Latvia	No	n/a	Yes	As the posting of workers is regulated by the Labour law, VDI may apply general sanctions for violation of the Labour law as prescribed by the Latvian Administrative Violations Code (starting from Article 41). The code does not prescribe special sanctions for violation of Articles 14, 14.1, 14.2.
Lithuania	No	n/a	Yes	Non-declaration of a posted worker is an administrative infringement stated in the Code of Administrative Offences. According to Article 101 of the Code of Administrative Offences, non-declaration of a posted worker may impose a fine for an employer from €120 to €220.
Luxembourg	No	n/a	Yes	Failure by the posting company of the obligations relating to the declaration of posting, to the communication of the required documents as well as to the partial or total non-payment of the salary legally or contractually due to posted employees or any other breach of the public policy provisions is punishable by an administrative fine of one amount between €1,000 and €5,000 per posted employee and between €2,000 and €10,000 in the event of a repeat offence.
Malta	No	n/a	Yes	In cases of non-compliance, a fine of between €117 and €1,165 may be imposed if convicted. This is a criminal fine imposed by the court.
Netherlands	No	n/a	Yes	Intermediaries that do not, or do not correctly, register in the Business Register are fined. The same goes for their clients. The fines in case of violation of the Waadi are hefty: 1 to 10 workers: €12,000 per worker; 10 to 30 workers: €24,000 per worker; 30 or more workers: €48,000 per worker. In case of a second offence of the legislation, the amounts of the fines are doubled; when the legislation is violated a third time, the amounts are tripled.
Poland	No	n/a	Yes	Fines of up to PLN 30,000 (€7,006) can be imposed for not fulfilling the conditions of registration (notification) with PIP.
Portugal	No	n/a	Yes	Administrative sanction: Fine. The amount of the fine depends on the turnover of the company and the type of offence (minimum €204; maximum €61,200).
Romania	No	n/a	Yes	Non-submission by the employer carrying out a transnational posting of the declaration regarding the posting of employees to the territorial labour inspectorate shall be sanctioned by a fine from 5,000 lei to 9,000 lei (€1,100–€2,000).
Slovakia	No	n/a	Yes	Up to €100,000 (general), average fine €1,000.

(Continued)

Table 7: Continued

Country	For a PDA1		For national registration	
	Yes	No	Yes	No
Slovenia	Yes	No	Yes	No
Spain	Yes	No	Yes	No
Sweden	Yes	No	Yes	No
United Kingdom	Yes	No	Yes	No

Note: n/a = not applicable or no information available

Source: Eurofound Questionnaire – input from national correspondents



# 3 Data gaps and challenges

The information presented in Chapter 2 illustrates that there is no uniform approach among Member States in terms of the type of information on the posting of workers and the way in which it is collected. This makes the provision of reliable and comparable data on the posting of workers in the EU difficult. Gaps exist regarding the issues on which information is collected, and challenges exist regarding the comparability of available data, access to it and exchange of it at the European level.

As described, Member States have an important margin of discretion for designing the systems for registering/declaring the posting of workers. This margin applies to the process of granting a PD A1 and national declaration systems. Differences between countries exist on each feature, including the form to be filled in, the information requested and the checks performed. The timing it takes to issue the form or provide the declaration may vary considerably. While countries using an automated system can deliver the form in a very short time – sometimes even automatically – other countries struggle with delays.

The variety of procedures increases the difficulty of exchanging data and information cross-border, and even more of providing an overall European picture.

## Cross-border exchange of information

Intra-EU posting of workers is clearly a situation involving multiple Member States, as well as several regulations and institutions. Information from different entities and regulatory backgrounds needs to be compiled to efficiently assess and monitor the posting situation. Cross-border exchanges of information are key, in this regard. Member States have an interest in developing this monitoring, not only in terms of employment and labour market trends, but also social security contributions and tax payments.

Similarly to collecting data and issuing a PD A1 form, or registering a declaration of posting, the cross-country exchange of information is also tackled differently across Member States. The system of transfer of PD A1 to other countries varies, for example. Despite Article 15 of the Implementing Regulation, a copy of the PD A1 form is not always sent to the host Member State.

Article 4 of the Posting Directive introduced the idea of national liaison offices, as well as the obligation to cooperate, including replying to reasoned requests from public authorities ‘for information on the transnational hiring-out of workers, including manifest abuses or possible cases of unlawful transnational activities’. Moreover, it was clarified that mutual assistance between public authorities should be free of charge (see Article 4 of Directive 96/71/EC).

In practice, however, this is not always deemed sufficient to achieve reliable cross-border cooperation, as deadlines are not always respected, and information provided may not be adequate.

## Internal Market Information System

The Internal Market Information System (IMI) was established to improve the exchange of information across borders. It is an IT-based information network that links up national, regional and local authorities, enabling them to communicate quickly and easily with their counterparts abroad. The IMI allows authorities to request information on a specific posting, among other things. When sending a request for information with regards to a posting, certain questions can be selected. These are presented in four categories:

- questions about a posting company
- questions about posted workers
- questions about the nature of a posting (start date, end date etc.)
- questions about attached documents

The IMI aims to allow labour inspectors who do not know each other, and who may not share a common language, to transmit requests related to labour inspection to any other EU Member State via the system.

In 2017, some 3,100 requests related to posting were sent by the IMI. The majority of these were sent by Austria (1,154) and Belgium (710), covering almost 60% of the requests. Most Member States only issue a limited number of them (Table 8). Furthermore, important differences exist among countries in this regard. When considering, for instance, Germany and France, the two main receiving Member States of posted workers, the difference is striking. Germany sent 18 requests, whereas France sent 487.

The use of the system might be influenced by whether access to it is organised at a centralised or decentralised level, as well as by the number of institutions and people who have access to it.

According to feedback collected by Eurofound’s national correspondents, the IMI is nonetheless seen as positive in many Member States<sup>4</sup>. Both Austria and Belgium, the main users of the IMI, reported that the cooperation with other foreign authorities (in terms of the quality of responses, and the time it takes to receive a reply) could still be improved. The fact that the content of the information requests is not registered in enough detail was another area for improvement mentioned by national level experts, as it could pose a missed opportunity to monitor issues surrounding intra-EU posting. It should also be noted that the scope of the IMI does not currently cover the communication between authorities issuing the PD A1.

4 According to Eurofound’s correspondents’ feedback from interviews with key stakeholders.

Table 8: Use of the Internal Market Information System (IMI)

Country	Feedback on use of the IMI	Number of requests sent in 2017
Austria	Authorities consider the IMI as a helpful tool to communicate with authorities from countries where information is required. Partly good experiences with information requests, given mostly in time and with relevant answers on the information requested. However, communication between Austrian authorities and social insurance funds from sending states (Poland and Slovenia were explicitly mentioned) were reported to be cumbersome.	1,154
Belgium	The answers to the requests depend on the extent to which colleagues from other countries are willing to cooperate. In some Member States there is no similar labour inspectorate, which means that there is no general knowledge on the matter.	710
Bulgaria	n/a	40
Croatia	The system is quite efficient and there are no inconveniences.	11
Cyprus	The IMI is not used very much in Cyprus. The coordinator of the IMI in Cyprus reported that Cypriot authorities are rather receivers of consultation requests than senders and that the IMI traffic in Cyprus is extremely low as regards posting of workers. None of the interviewed users of the IMI in Cyprus reported any inconveniences.	0
Czechia	In cases of doubt, the SUIP verifies the existence of a foreign employer abroad via the IMI and, possibly, the authenticity of the A1 form issued by a foreign social security authority. Forged A1 forms concerning foreign posted workers in the Czechia are discovered relatively often.	57
Denmark	n/a	255
Estonia	The main inconvenience, according to the Labour Inspectorate, is the complexity of uploading documents (i.e. only a limited number of files can be uploaded/sent at once and only when replying to a specific question). The inspectorate however, pointed out that the system has gone through several updates in recent years and it has improved. There have also been issues with language (i.e. the default questions are automatically translated into Estonian; however, if the other country asks additional questions, then these are not translated into Estonian or English and thus are not understandable. There are also countries (not specified) that do not answer the requests, or the answers take a very long time to arrive. Sometimes other countries have trouble finding authorities in their country who have competence in answering some specific questions.	9
Finland	According to a representative for The Occupational Safety and Health Authority, the system works best in situations where the response can be stated clearly and simply as a yes or no (when asking if a company posting workers to Finland has 'genuine activity' in the sending country, for instance). The usefulness of the answer received reportedly depends on who submits the answer. The lack of access to detailed information was mentioned as a weakness in the system.	5
France	n/a	487
Germany	The IMI is not used at regional or local level. FKS just recently decided to better promote its usage.	18
Greece	According to the authorities, it works well as a tool for information exchange. It is standardised, easy and fast. The competent foreign authority is easily identified and there are short deadlines for responding and standardised questions. The negative point is that there is no follow-up after the exchange of information. For example, if the Greek authorities receive a question they do not find out what happened and how the case was concluded.	13
Hungary	According to evidence from interviews with the Hungarian Authority, the IMI information exchange is useful and helpful for the nationals posted; however, the task is demanding, and the requests are connected to the problem of the posted workers in the receiving countries. From the point of view of Hungary as the sending country, the requests sometimes interfere with a smooth posting. Requests arriving through the IMI to Hungary are concentrated on a few countries (Austria, Belgium) while others do not seem to use the IMI (for example, Germany). Most of the requests are for information on the legal registration of the employers or employees – the IMI is good for this type of information exchange. The responsible authority has no access to the PD A1 forms, any request arriving to the authority will be consulted with the competent office of NEAK as regards the PD A1 form. As regards fines, according to the IMI regulation, Hungary has no choice but to accept the information on an imposed fine and try to collect the fine, which is demanding (including administration, sending the documents, serving the summons, etc.). If successful, the collected amount remains in the sending country (based on Act LXXV of 1996 on labour inspection, supplement 3 on the request for the execution of a labour decision abroad). All in all, the IMI is evaluated as useful and effective by the Hungarian officials; however, only a few countries send requests (about five or six).	1
Ireland	n/a	0

Table 8: Continued

Country	Feedback on use of the IMI	Number of requests sent in 2017
Italy	n/a	132
Latvia	Advantage of the system is its wide and unified geographic coverage (all EU) and functions (information, consultation, cooperation in implementation of sanctions). There is not enough experience to identify inconveniences.	11
Lithuania	There are some Member States that do not have information about labour/working conditions. Some Member States do not use relevant databases and some simple questions about the particulars of employment are left unanswered for a long time.	18
Luxembourg	n/a	16
Malta	Even though the DIER believes that the IMI is a good instrument that facilitates the exchange of information, it does not appear that this system is used widely by this authority. With regards to inconveniences of the system, the DIER representative mentioned (as a hypothetical case), that if the period of posting is less than the period of reply (which is approximately 30 days), then it is impossible to obtain a reply from the authorities before the worker is posted, which defeats the use of the system.	0
Netherlands	In 2015 the EC conducted an IMI user survey. The study was conducted in all EU-member states. The survey revealed a big difference in the frequency of use by national authorities compared to local authorities: while 48% of national authorities frequently use IMI (at least once per month), only 18% of local and regional authorities do so.	43
Poland	Due to the structure of posting (posting from Poland dominating), the number of requests received by PIP through the IMI is several times larger than the number of requests made. The questions formulated relatively frequently in the requests received by PIP include: existence of employment relationship between the employer posting and the posted workers before (previous relationship) and during posting; observance of law of the employer posting; scope of economic activity by the employer posting; sectoral domain of economic activity by the employer posting; domestic performance of genuine activity by the employer posting; start and end dates of the posting period; due payment of social security contributions by the employer posting; approach to daily allowances (whether they are treated as a part of minimum wage); payment of overtime extras; and amounts of wages declared and actually paid.	21
Portugal	The Authority for Working Conditions (Autoridade para as Condições de Trabalho – ACT) identified a set of advantages, namely: Lower time of response; Possibility to exchange information and clarifications during the request; The Inspector responsible for the request will do the intervention and the control of the company; Swiftswiness in response and effectiveness in inspections.	16
Romania	n/a	13
Slovakia	n/a	90
Slovenia	From the point of the Labour Inspectorate of the Republic of Slovenia, a great advantage of the IMI is a possibility to notify a decision imposing a penalty or fine, so that the decision can become final and enforceable. Another advantage of the system is multilingualism, which enables the communication in many languages. Since other Slovenian institutions (FURS, AJPES) have joined the IMI, the system also facilitates easier access to information. Additional resources are needed in relation to the growing activities of the IMI.	7
Spain	The extension in the use of the IMI to monitor the posting of workers is seen as a positive. In particular, the Labour Inspectorate is increasingly using this resource to monitor the situation of Spanish posted workers abroad. According to the ITSS, the use of the IMI continues to increase, because of speed and the ability to locate and forward requests for information to the authority of another Member State who has supervisory competence. The IMI is becoming the most common means to send and receive consultations on posted workers.	13
Sweden	The representative of the Work Environment Authority did not express any disadvantages or inconveniences with the IMI. One advantage is that the authority can ask questions to their counterparts in other countries when needed. This has been done in cases when the authority has investigated a foreign company posted in Sweden.	5
United Kingdom	The UK Government's recent impact assessment on the Enforcement Directive refers to the IMI. It states that cooperation arrangements will be needed between the relevant UK competent authorities to meet the information exchange and inspection requirements in Articles 6, 7 and 10 and the cross-border enforcement of civil penalties. It states that the pre-existing IMI system used to facilitate information requests between Member States can be adapted to serve in this regard (although there are likely to be administrative costs incurred by competent authorities for responding to requests and possibly in making them).	0

Note: n/a = no specific comments on the use of IMI

Source: Eurofound Questionnaire – input from the Network of Eurofound Correspondents. IMI data: [http://ec.europa.eu/internal\\_market/imi-net/statistics/index\\_en.htm#maincontentSec2](http://ec.europa.eu/internal_market/imi-net/statistics/index_en.htm#maincontentSec2)

## Monitoring posted workers at European level

Monitoring the posting of workers at the European level is of interest for assessing the legal, economic and social impact of this form of mobility.

The Administrative Commission on the Coordination of Social Security Systems plays an important role in European-level monitoring. It comprises representatives of the government of each EU Member State, and is responsible for dealing with administrative matters, questions of interpretation arising from the provisions of regulations on social security coordination, and promoting and developing collaboration between EU countries<sup>5</sup>. Since 2010 on a yearly basis, administrative data on the coordination of social security (among other) systems, regarding the applicable legislation and covering all EU28 Member States and EFTA countries, are collected within the framework of the Administrative Commission. It is then analysed and reported by the Network Statistics FMSSFE.

### European PD A1 questionnaire

For more than a decade, the European Commission has collected data on the number of E101/PD A1 forms granted by Member States, through a questionnaire issued to them<sup>6</sup>. In recent years, several new questions were included in the PD A1 questionnaire, and these have improved the information available on intra-EU posting. More detailed information on the number of individual posted workers, the duration of the posting period and the sector of activity is now available.

The data only provide an indicative picture of the actual number of posted workers, however. This is for several reasons.

- Having a PD A1 is not a mandatory requirement before the posting takes place. A PD A1 can also be awarded with retroactive effect. Consequently, the number of

PDs A1 issued, and its evolution, may depend on the number of inspections performed by the enforcement bodies in the host Member State (concentrated in certain sectors of activity). It may also be dependent on the extent to which the host Member States have implemented sanctions in the event of a failure to present a PD A1 (see also Table 7).

- Due to differences in the scope of posting between the Posting of Workers Directive and the Basic Regulation, the number of issued PDs A1 may not fully reflect the characteristics and the scale of posting under the Posting of Workers Directive in the EU.
- The number of PDs A1 issued is not necessarily equal to the number of persons involved, as several PDs A1 may be issued to the same person during the reference year. Also, only data on the number of PDs A1 issued according to Article 12 of the Basic Regulation are available, from the perspective of the host Member State, which is an underestimation of the total number of PDs A1 received.

As shown in Table 9, only a limited number of Member States reply to all questions in the questionnaire and provide figures on the number of individual persons involved, as well as on the sector of economic activity and on the duration of posting.

### Questionnaire on fraud

The questionnaire on 'fraud and error in the field of EU social security coordination' collects qualitative data on:

- the steps taken to prevent and combat fraud and error (among others, in the case of posting)
- specific problems in implementing the rules
- agreements and bilateral cooperation agreements with other EU Member States entered into for the purposes of combating fraud and error
- best practices

**Table 9: Indicators on posting collected by the PD A1 questionnaire and response rate**

Indicator	Source	Response rate
Number of postings	Number of PDs A1 issued based on Article 12 BR	31 out of 32 countries (no data for NO)
Flow of postings among Member States	Number of PDs A1 issued based on Article 12 BR, breakdown by host Member State	29 out of 32 countries (no data for CH, NO and UK)
Status (worker or self-employed)	Number of PDs A1 issued based on Article 12 BR, breakdown by status	30 out of 32 countries (no data for DK and NO)
Sector of activity	Number of PDs A1 issued based on Article 12 BR, breakdown by sector of activity	21 out of 32 countries (no data for BE, BG, CH, DE, DK, EL, ES, IE, IT, NO, UK)
Number of individual posted persons	Individual number of persons who received a PD A1 based on Article 12 BR	21 out of 32 countries (no data for CH, DE, EL, ES, LI, LT, MT, NL, NO, RO, UK)
Posting period	Number of PDs A1 issued based on Article 12 BR, by (anticipated) duration	18 out of 32 countries (no data for BE, BG, CH, CY, DE, DK, EL, ES, LI, LT, MT, NL, NO, SE, UK)

Source: De Wispelaere and Pacolet, 2018b

<sup>5</sup> The composition, operation and tasks of the Administrative Commission are laid down in Articles 71 and 72 of the Basic Regulation.

<sup>6</sup> Since 1 May 2010, E101 forms have been replaced by PDs A1 under Regulation (EC) No 883/2004 on the coordination of social security systems. These new rules have been applied to nationals of Switzerland since 1 April 2012, and to nationals of Iceland, Liechtenstein and Norway since 1 June 2012.

- lessons learned
- issues or concerns (including with regards to privacy and data protection) when dealing with cross-border cooperation and information exchange

Finally, quantitative data on the frequency of fraud and error in the case of posting are collected by the PD A1

questionnaire. Member States are asked to describe, in more detail, any patterns of behaviour, inappropriate uses of PD A1, or other cases of fraud, to quantify the number of cases identified and the amount involved. In addition, they are asked to report the number of PDs A1 withdrawn.

## Box 2: 2017 European data on posting of workers (Articles 12 and 13)

### Size, profile and impact of intra-EU posting based on information from the PD A1 questionnaire

In 2017, a total of 2.8 million PDs A1 (Articles 12 and 13) were issued, amounting to 0.8% of total EU employment. Key findings from the questionnaire are:

- Poland (573,358 PDs A1 issued) and Germany (399,745 PDs A1 issued) are the two main Member States with the most PDs A1 issued
- there was an increase of more than 500,000 issued certificates (+22%), compared to 2016
- PDs A1 are on the increase, especially those based on Article 13

### Article 12

A total of 1.7 million PDs A1 (Article 12) were issued in 2017 (equivalent to 0.4% of EU employment and 0.2% of employment in FTEs).

Main sending:	Germany (332,091)
	Poland (235,8366)
	Slovenia* (163,876)

Main receiving:	Germany (427,175)
	France (241,363)
	Belgium (167,335)

\* Some 5% of the Slovenian employed population is posted abroad.

### Two significant flows:

- Poland to Germany (114,979 PDs A1)
- Slovenia to Germany (71,219 PDs A1)

### Trends in PDs A1 (Article 12) compared to 2016

- increase by 6.5% in total, mainly the result of an increasing number of PDs A1 issued by Germany (+100,000 PDs A1)
- decrease by 1% for PDs A1 from the EU13 Member States, mainly due to a strong decline of such certificates issued by Poland (-24,163 PDs A1)
- higher number of PDs A1 received by some receiving Member States, especially France (+38,344 PDs A1), Austria (+20,896 PDs A1) and the Netherlands (+20,649 PDs A1)

### Construction sector

- on average 47% of PDs A1
- main sending Member State, Slovenia with 6 out of 10 employed persons sent abroad
- main receiving Member States: Austria, Belgium and Luxembourg

### Number of individual posted workers

- roughly 57% of the number of PDs A1
- one person posted twice during the observed period

The duration of the posting period was, on average, 98 days in 2017. On average, 7% of the forms were issued to self-employed persons.

(Continued)

## Box 2: Continued

## Article 13

For the first time, over 1 million PDs A1 (Article 13) (equivalent to 0.4% of EU employment in FTEs).

The main issuing Member State: Poland (325,000), almost one-third of A1 certificates.

## Trends in PDs A1 (Article 13) compared to 2016

- remarkable growth compared to 2010 (168.276)
- the share PDs A1 (Article 13) in the total number of PDs A1 strongly increased: it is up to 36% in 2017
- average duration of provision of services in two or more Member States was 305 days in 2017

## Road freight transport sector

- one-half of the PDs A1 (Article 13) are from Poland
- up to half of the truck drivers employed in Croatia, Latvia, Lithuania, Luxembourg, Poland and Slovakia pursue an activity in two or more Member States

Source: *De Wispelaere and Pacolet, 2018b*

## Analysing national declarations for incoming posted workers

In 2018, data on the number of incoming posted workers registered by the national declaration tools were, for the first time, collected at European level. This was achieved via a questionnaire, launched within the framework of the Expert Committee on Posting of Workers (ECPW).

It is certainly useful to collect data on posting using the existing national declaration tools<sup>7</sup>, as most Member States have introduced a notification duty for incoming posting undertakings (Table 5).

The ECPW questionnaire requests more information about the national registration tools. The aim of the questionnaire is to collect detailed figures on the number of individual posted persons registered (both by Member State of origin and by nationality), the average period of posting and the sector of activity. The scope of the questionnaire includes both posted workers and self-employed persons posted by an EU28 Member State, an EFTA country or by a country outside the EU28/EFTA. All questions make a distinction between the types of posting defined by the Posting of Workers Directive (posting between a company and a service provider ('subcontracting'), posting of workers within the same group ('intra-group posting') and posting through temporary work agencies).

At present, the two data sources, PD A1 and the national declaration tools, are not fully comparable. This is because of the differences in scope between the data based on the PD A1 form, and the data collected by the national

declaration tools. It is also due to differences in the 'unit of measure', as the PD A1 data count the number of forms, while the national declaration tools count the number of persons involved.

## Issues around data collection and data gaps

When asked to assess the gaps in information (from the perspective of labour market policy, workers' rights, working conditions, and fair competition/level playing field), national correspondents and stakeholders underlined the following issues:

- some of the national registration systems contain a wealth of valuable information that could be further examined
- there is a need for financial/human resources to process the available information
- electronic data is a step forward in efficient processing of the data
- data on posting should be considered in connection with domestic employment figures
- steps taken to improve data availability should not result in an additional administrative burden
- there is often a lack of human resources to check if the information is correct before issuing a PD A1

7 Some Member States already publish figures/annual reports based on the data extracted from the national declaration tools. Denmark: <https://erst.virk.dk/rut3/public/forespoergsel/liste?lang=enttps://erst.virk.dk/rut3/public/forespoergsel/liste>  
France: Direction Générale du Travail (DGT) (2017), Analyse des déclarations de détachement des entreprises prestataires de services en France en 2016, Ministère du Travail.  
[https://travail-emploi.gouv.fr/IMG/pdf/prestations\\_de\\_services\\_internationales\\_2016\\_\\_doc.pdf](https://travail-emploi.gouv.fr/IMG/pdf/prestations_de_services_internationales_2016__doc.pdf);  
Luxembourg: <http://www.itm.lu/home/itm/rapport-annuel.html> For Belgium, see *De Wispelaere and Pacolet, 2017*.

# 4 Steps towards improving the monitoring of posted workers in the EU

As the information presented in Chapters 2 and 3 has shown, there are data gaps and weaknesses that make it difficult to provide reliable and comparable information on the number, flow and working conditions of posted workers in the EU. This chapter examines several options for how this situation could be remedied. The options outlined are largely not covered by current EU legislation and would require Member States to agree to act. As the request to map the current situation and develop options for improvement was made by the Government Group of Eurofound's Management Board, the assumption is that Member States have an interest and are open to considering this. At the same time, Member States have a wide margin of discretion in implementing existing legislation with a view to collecting and sharing more, or different, information about incoming and outgoing posted workers.

## Scope and quality of data to be collected

As a first step, we will outline the scope and quality of data that would need to be collected. We will distinguish requirements at national level and European level, and look at a 'minimalist' option, covering the bare minimum of data required, and a 'comprehensive' option, which would provide a more complete picture. It might for example, also include information on the working conditions of posted workers and on the company hosting the workers.

Recital 5 in Directive (EU) 2018/957 highlights the need for accurate statistics, particularly regarding the number of posted workers in specific employment sectors and per Member State.

Table 10 presents the data that should be requested at minimum (in the first column) and the data that would need to be collected for a more comprehensive picture of the posting of workers situation (in the second column).

The 'minimalist' approach considers the fact that Member States need to fulfil their obligations regarding the Coordination Regulations and the specific Directives

regulating the posting of workers. Regarding the latter, the Enforcement Directive is of particular interest, as Article 9 lists information that Member States may require the service providers posting workers in their countries to declare. In Table 10, these items are marked with an asterisk.

Selecting the scope of data coverage involves a trade-off. For a better monitoring and understanding of posting, more data are required. This, in turn, requires more effort from the data producers (service providers, posted workers, service recipients) and a higher administrative burden for countries.

### Minimalist approach

The described minimalist approach to data collection results in basic information about the main players in posting situations. It is sufficient to establish affiliation of posted workers to a social security system and allow authorities in the Member State to verify that the conditions for a proper posting situation, established by the Posting of Workers Directive, are fulfilled. While the extent of this data collection implies a relatively smaller administrative burden for the parties involved, it also means that further analysis of the phenomenon of posting will remain limited.

The minimalistic approach produces sufficient data to monitor posting in terms of the number of posted workers, the number of posting companies, the duration of postings, the countries of origin and destination, the precise location of posting in the receiving country, the occupation of the workers and the sectors they are employed in.

This means that, despite remaining 'minimalist', if the data described above are systematically requested across all Member States, the current situation will already greatly improve. As an additional benefit, improved administrative data on the number and basic characteristics of posted workers would also make the design and implementation of a representative survey of posted workers easier. This could complement the information available from administrative data.

Table 10: Possible scope of data on posting of workers

	Minimalist (basic information)	Comprehensive (detailed information)
Posted workers	a) <b>Personal identification elements:</b> name, age, gender, nationality/citizenship, address, contact details, ID number or social security number, tax number b) <b>Occupational elements:</b> occupation (ISCO code), employment status (employee vs self-employed)	a) + Education level b) + Type of contract (indefinite vs fixed term), seniority in the company, remuneration, normal working hours, leave entitlements
Posting employer	c) <b>Identification elements:</b> legal name, legal address, contact details, legal entity type, tax number, contact person d) <b>Organisational elements:</b> sector of activity (NACE code)	c) + Ownership (public vs private) d) + Total number of employees (in the country and in total, by gender), % of posted workers (annual average or at the end of the year)
Organisation receiving service	e) <b>No information to be collected under the minimalist approach</b> f) <b>No information to be collected under the minimalist approach</b> g) <b>No information to be collected under the minimalist approach</b> h) <b>No information to be collected under the minimalist approach</b>	e) + Identification elements: legal name, legal address, contact details, legal entity type, tax number, contact person f) + Organisational elements: sector of activity (NACE code) g) + Ownership (public vs private) h) + Total number of employees (in the country and in total) i) + Reasons for contracting out services
Posting	i) Duration of the posting j) Place(s)/location(s) of work during posting (country, region, municipality, address)	j) + Type of work/job description* k) + Working time arrangements (duration, scheduling, rest periods) l) + Extra-remuneration(s) as per hosting country/sectoral rules m) + Leave entitlements as per hosting country/sectoral rules

Source: Eurofound compilation

Based on what would be collected under the ‘minimalist’ approach, very little can be stated in terms of the actual working conditions experienced by posted workers, or the motivations behind their postings.

### Comprehensive approach

The ‘comprehensive’ approach, on the other hand, would require more effort, in terms of filling in more detailed forms and processing and storing the requested data. It would also allow for much deeper analysis, however. It contains more elements that characterise the organisations involved in the posting – size of the posting organisation, in terms of employment, respective share of posted workers, characteristics of the receiving company including ownership (private versus public), and motivation for using services provided through posted workers, for example. In this scenario, more information on the situation of the posted worker would be available, including elements such as contract type, number and schedule of working hours, remuneration (including overtime rates), and leave entitlements during posting.

## Efficient and coordinated way of data collection

Next, we will look at options for data collection, the coordination of the process, and how this is linked to data accessibility and sharing.

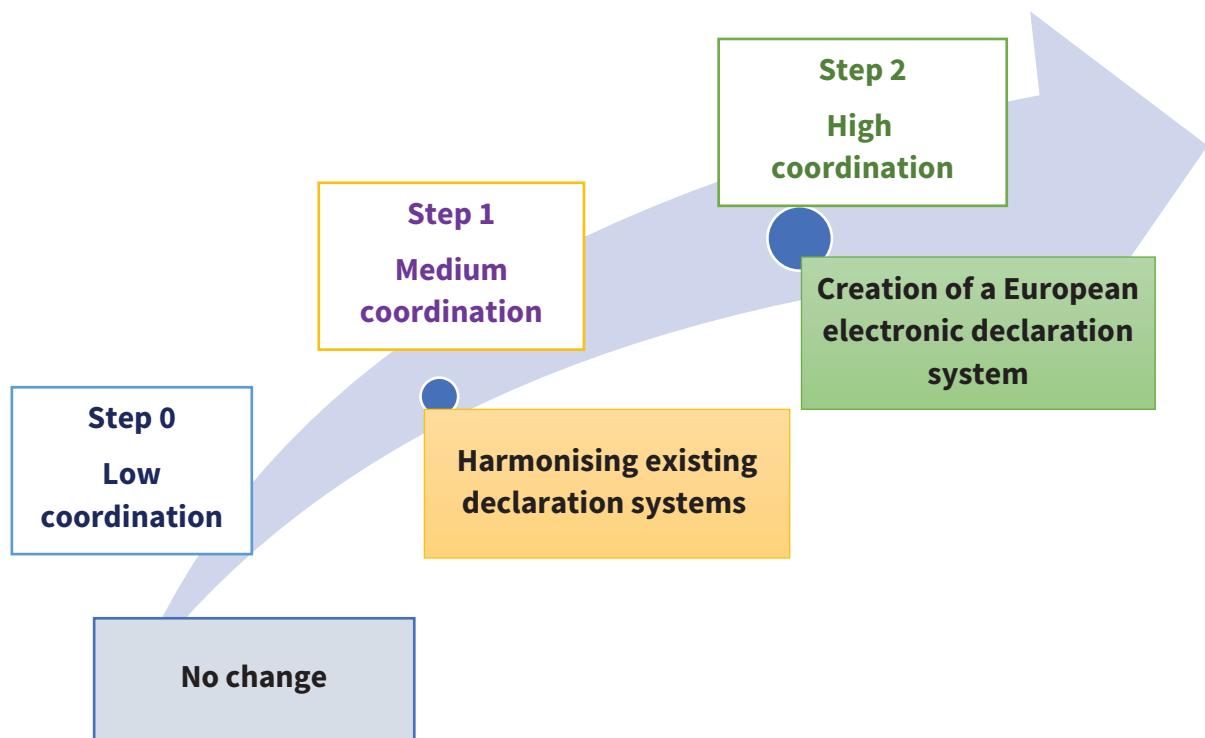
### Improving the coordination of data collection across Europe

Improving the quality of available data by ensuring that a minimum catalogue of elements is covered in its collection is a first step towards better monitoring of the posting of workers in the EU. It should help to achieve higher levels of comparable data across borders and at European level. A strategy is required to enhance this comparability and ensure easy sharing of and access to information.

Three incremental steps, which could lead to the construction of a European electronic declaration system, are outlined below. This would, ideally, provide access to data related to the posting of workers to all (authorised) stakeholders.



Figure 2: Incremental approach for improving monitoring



#### Step 0: Low coordination: No change – baseline scenario

##### What?

With this option, any improvements would be based on making better use of the possibilities provided by the Enforcement Directive and any voluntary action being taken by the Member States. No additional, coordinated efforts would be made to improve and harmonise data collection.

##### How?

Member States will all have implemented plans to adopt declaration systems for incoming posted workers (in cases where they are not yet fully functioning) and/or improve the PD A1 and national declaration forms and systems. This could be achieved by moving towards fully electronic forms and data collection, for example.

Additional efforts could be made by Member States to reply fully to the questionnaires aimed at capturing data available at the national level (issued by the European Commission for the PD A1 process and by the Expert Committee on Posting of Workers for national declaration systems of incoming posted workers). Combining and comparing replies to the two questionnaires could lead to new insights.

##### Expected outcomes

- Improvement from the current situation (based on better use of the possibilities provided by the Enforcement Directive).
- No reliable, comparable data on the flow of posted workers available, except for estimates based on the two questionnaires issued to Member States (see above) (see European Commission 2018).
- No facility for sharing data on the numbers of posted workers between Member States directly.
- No reliable, comparative information on the working conditions of posted workers available, and difficulties in surveying them, given a lack of reliable registers.
- No change to administrative burden, regarding declaration requirements for businesses and posted workers.

##### Challenges

n.a.

##### Potential timeline

n.a.

### Step 1: Medium coordination: Improving coordination through harmonisation

#### What?

With this option, existing data collection systems would be improved, with the aim of allowing for better cross-border coordination through harmonisation of declaration forms.

- Coordinate information required by PD A1 forms<sup>8</sup> and forms for declaration of incoming posted workers by agreeing to mandatory elements complementing each other and including one European template for national registrations of incoming posted workers (available in all official languages).
- Implement the agreement among Member States to use electronic systems for the PD A1 process<sup>9</sup> and the process of declaring incoming posted workers.

#### How?

- Discussing and agreeing at European level (in the Administrative Commission or, if appropriate, in the setting of the European Labour Authority) the opportunity and the possible requirements for European templates.
- Updating (and, for some EU Member States, creating) a national declaration system to ensure availability of an electronic system for both the PD A1 process and the declaration of incoming posted workers.

#### Expected outcomes

- Harmonised data available on agreed elements collected across Europe through the PD A1 forms and national declaration systems.
- Improved possibility for analysis of the posting of workers phenomenon at European level, based on these data (including the possibility of conducting surveys based on better registers of posted workers).
- Easier cross-border exchange of information, as actors are clear on what type of information is available at

Member State level, and because all information is available electronically.

- Improved clarity for businesses regarding what information and data are requested when posting workers.
- Better information available for ensuring the protection of labour rights, payment of social security contributions, and detecting fraud and imposing sanctions.

#### Challenges

##### European level

- EU level consultation with all stakeholders, including public authorities (labour inspectorates, customs, social inspections, taxation bodies, institutions in charge of sanctions (judges/administrations) and social partners).
- Translation of the forms into all EU official languages, to ensure comparability of data requested and better access to information for data providers (companies, workers).

##### National level

- Updating existing systems to allow for electronic submission of forms.
- Revising forms (PD A1 and/or registration forms for incoming posted workers) to reflect the requirements for harmonised data.
- Systematic registration of PD A1 and incoming posted workers forms.

##### Potential timeline

- Short term. Administrative Commission can discuss EU-wide harmonisation efforts<sup>10</sup>.

### Step 2: High coordination: Fully harmonised and coordinated registration in an EU wide system

#### What?

- Building a European electronic registration system for the posting of workers, which matches data collected in connection with social security affiliation by authorities in the sending country, with data on incoming posted workers collected by authorities in the receiving country.

#### How?

- Integrating the two harmonised forms (PD A1 and national registration of incoming posted workers) in a unique, European-level electronic registration

system. The system would be accessible to authorities in the sending Member State, allowing them to enter information required in the context of establishing social security affiliation of the worker being posted. It would also be accessible to authorities in the receiving country for recording information on the employment situation of each posted worker entering the country. A common identifier (which could be a European social security number) would allow for matching the information provided by the two sides of the posting situation (sending and receiving Member States).

<sup>8</sup> The PD A1 form has a European template (see Annex 4 of European Commission (2018)). However, the forms issued in the Member States differ quite substantially.

<sup>9</sup> The Single Digital Gateway Regulation, adopted in October 2018, foresees that all procedures listed in annex II, particularly the entire procedure for a PD A1, should be fully online.

<sup>10</sup> Note: Harmonisation of data collected on posting situations will have an even stronger impact if declaration of posted workers is made compulsory for both domestic workers posted abroad (PD A1 forms) and foreign workers posted in the country (national declaration forms). However, CJEU jurisprudence currently upholds the possibility for PD A1 forms to be granted retroactively. This means that information based on the monitoring of PD A1 forms will not provide an accurate picture of the numbers of posted workers. The Enforcement Directive gives Member States the opportunity to make registration of incoming posted workers mandatory but does not impose it.

### Expected outcomes

- Full comparability and matching of data collected on the posting of workers.
- Easy compilation of statistics extracted directly from one, European-level database.
- Improved access to key data for all potential stakeholders, such as labour inspectorates, social security institutions, customs and tax authorities (sending and receiving countries).
- Improved clarity for data providers (companies and posted workers) on what type of information is required of them, and an improved process for entering these data.
- Improved clarity for posted workers, as well as sending and receiving companies, on their rights and obligations.

### Challenges

#### European level

- EU level consultation with all stakeholders, including public authorities (labour inspectorates, customs, social inspections, taxation bodies, institutions in charge of sanctions (judges/administrations) and social partners).
- Review of existing legislation, with the aim of making the provision of information on posting of workers mandatory, as well as in relation to rules for data access.
- Creation of a European electronic system of registration, considering synergies to be achieved by merging with existing information exchange systems (Internal Market Information System (IMI) and Electronic Exchange of Social Security Information (EESSI)).
- Coordination of implementation at national level, including training of stakeholders using the system.

### National level

- Informing stakeholders about the system.
- Training officials working with the European electronic registration system.

### Potential timeline

- Long term, as changes in legislation are required.

### Incremental approach to improvement

As outlined above, improving the monitoring of posting of workers in Europe requires action in two areas: improvement of the scope and quality of data collected, and improvement of the coordination and data sharing among Member States. Pursuing both approaches would lead to an 'ideal scenario', characterised by the availability of comprehensive data, and easy access to it, at Member State level and European level.

Some of the options available will require a higher initial investment than others. Efforts required by Member States' institutions could initially be significant. Costs, in terms of human and financial resources, are likely to decline, however, while improvements, in terms of better monitoring, increased capacity to collect social contributions and taxes, and address fraud, will increase. The high 'entry fee', therefore, is likely to pay off in the long run.

The paths described are considered incremental. Moving in one step from the current situation to a fully harmonised, comprehensive (in terms of data) and coordinated (in terms of collection) system is highly improbable. There are a high number of possible intermediate steps. Deciding on the path to follow for getting better quality of data will require consultation of all stakeholders as well as careful attention to data protection rules.

It is also important to note that technological developments can assist in the process of achieving a fully integrated European registration system. ICT-based solutions make it possible to control access to information and restrict accessibility to personal information, while still allowing for the monitoring of overall numbers and flows of posted workers in the EU.



# Conclusions

Free movement of workers is among the most valued achievements of the European Union, enshrined in Article 45 of the Treaty on the Functioning of the European Union. Considerable efforts have been made to facilitate it, while also making sure that the rights of mobile workers are protected – and that abuse and cases of fraud are detected and prevented. Against the background of freedom to provide services across Europe, intra-EU posting of workers is a specific form of labour mobility which often raises concerns around abuse and unfair competition.

Improving data sources to allow for the monitoring and analysis of incidents of posting, and the characteristics and working conditions of posted workers, is needed to ensure that businesses are competing fairly across Europe and that the labour and social rights of posted workers are recognised. A comprehensive monitoring tool would also be useful to help Member States ensure that they get their dues in social security contributions and taxes, and to combat abuse.

Sufficient and accurate statistical data, providing reliable information on the number of posted workers per Member State and for specific employment sectors, are not currently available. In this report, we have outlined what needs to change (in terms of the type of data to be collected and the harmonising of data collection across the Member States) if the observation of recital 5 of Directive (EU) 2018/957 is to be addressed.

A variety of options are available, ranging from a ‘minimalistic’ approach, in terms of the scope of information collected and a low commitment to exchange and sharing of data, to an ‘ideal’ scenario, where information collected would allow analysis of the working conditions of posted workers and the motivations for sending and using them. This would be based on a comprehensive, fully harmonised and widely accessible electronic exchange system.

It is the task of policymakers to choose their preferred option, considering the costs and administrative burdens associated with each option, as well as data protection issues and stakeholder concerns.

The current moment in time seems to be particularly suited to advance discussions, for the following reasons.

- Directive (EU) 2018/957 amending the Posted Workers Directive 96/71/EC was adopted on 28 June 2018 and will now be transposed into national law. Recital 5 of the Directive observes that Member States and the Commission should collect and monitor data on the posting of workers.
- In March 2018, the Commission proposed a regulation to establish a European Labour Authority (ELA), which was adopted by the Council on 13 June 2019. The ELA aims to facilitate access to information on their rights and obligations for individuals and employers, and to support operational cooperation between authorities. The founding regulation also foresees the

task of risk assessment and analytical work to identify the right issues relating to labour mobility and social security coordination, and to develop more targeted prevention and detection measures. Discussing and agreeing what kind of data needs to be provided on the posting of workers and by which actor, and organising access to and exchange of this information, fits the mandate of the proposed new European authority.

- Recent regulatory evolutions and proposals create a favourable framework, as they emphasise a seamless exchange of data and information.
- National implementation of the Electronic Exchange of Social Security Information (EESSI), made available by the Commission in 2017, is to be completed by 2019. The EESSI introduces Structured Electronic Documents which can be exchanged between Member States and replace paper-based exchanges of social security files. The EESSI already foresees an electronic document for ‘notification of posting’ to be sent by the competent Member State to the host Member State. This could serve as a starting point, or template, for an electronic document capturing posting situations.
- The European Commission’s 2016 proposal for a ‘revision of the EU legislation on social security coordination’ empowers the European Commission (together with the Administrative Commission) to establish standard procedures for the issuance, contestation and withdrawal of the PD A1 form. The Commission proposes the strengthening of these administrative rules by making sure national authorities have the right tools to verify the social security status of posted workers and sets clearer procedures for cooperation between Member State authorities to address potentially unfair practices or abuse. This could pave the way for harmonising the forms across Member States. In this context, making issuance of the PD A1 mandatory before posting could also be explored.
- Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union requires Member States to ensure that posted workers have access to all relevant information on working conditions (i.e. working time, remuneration, leave entitlements). The obligation to provide this information to the worker means that it should be available when registering incoming posted workers and that it can be included in the respective form.
- The European Commission has launched the idea of introducing a European Social Security Number. This should help to decrease wait times for responses to requests to verify insurance status across borders. A European Social Security Number would also facilitate the monitoring of flows of posted workers in Europe, as it would provide an identifier which ‘travels’ with the mobile worker. It would also address the current

situation, where not all Member States issue ID cards and where, as a result, personal identification numbers cannot be used consistently as a unique identifier for all Member States.

- Technological developments in the area of data collection and processing have widened the possibilities for customised data access and sharing across national institutions and Member States. The same technologies can be used for securing data against unauthorised use and ensuring compliance with data protection rules.

The debate about the posting of workers and its economic and social consequences needs to be based on evidence, which is difficult to provide with current data availability. Only based on this evidence can it then be decided whether posting leads to distorted competition and ‘unfair’ mobility, or whether it is a genuine form of labour mobility.

There is scope for valuable qualitative research, which Eurofound can offer to pursue. This could include, for example, analysing the companies involved and the profiles of client organisations, their reasons for availing of the opportunity to employ posted workers, and the benefits reaped. There is also a wealth of qualitative studies on posted workers, their characteristics and conditions of work (Kall and Lillie, 2017). Eurofound could add to this body of research through further interview-based case studies, accepting that the information collected would not be representative.

Improving data coverage and the degree of coordination of the declaration/data collection processes remain the first steps needed to get a better comparative view of the overall situation, in terms of who the posted workers are and what working conditions they experience.

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The debate about the posting of workers in the EU, its economic and social consequences, and ways to manage it is hampered by the fact that reliable, comparable data on the phenomenon are lacking. Accurate statistics on the number of posted workers, their characteristics and working conditions are simply not available. This report maps existing information sources at the European and Member State levels, and identifies the gaps in, and the limitations of, data currently available. The report outlines what kind of data would need to be collected to allow for a better monitoring of the situation of posted workers across Europe, as well as how this information could be collected and what kind of analysis would be possible based on these improved data sources.

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