



EU Posted Workers Directive Quarterly Review

2023-03 Autumn



PWD Registration
/Notifications -Top
Tips

Case Law
and Legislation

Administration
News

Key Contacts



PWD Registration / Notifications -Top Tips

European Union

[Many EU countries require non-EU employers to also register postings](#)

While the requirement for intra-EU posting is covered under the EU Posted Worker Directive, many EU countries have extended the obligation to register posted workers to non-EU employers to also notify postings to their countries. This includes Belgium, Bulgaria, Czechia, Denmark, Germany, Spain, France, Croatia, Italy, Lithuania, Luxembourg, Austria, Poland, Romania, Finland, Sweden (according to EU reporting).

Estonia

[New online platform](#)

The Labour Inspectorate in Estonia now offers a user-friendly self-service platform, TEIS, for easier submissions of the registrations for posted workers. These were previously filed manually. Effective July 17, 2023, registration via TEIS requires information such as the employer's details, contact person, posted employees' data, posting duration, client information, and work specifics.

Germany

[PWD notifications only required for limited industries and activities](#)

Germany has one of the most narrow notification requirements in the EU. Generally, a notification on the minimum wage portal may only be required in the following industries, which are considered high-risk for "labour dumping":

- Construction
- Haulage, transport and logistics
- Meat packing
- Forestry
- Passenger transport
- Private security
- Industrial cleaning
- Fairgrounds and amusements
- Catering
- Hotels

- Trade fairs and exhibitions (i.e. installation and dismantling)

Employers posting workers to Germany should also be aware of the monthly pay threshold, and duration test.



Administration News

European Union

Leaflet: “Posted Workers in the Construction Sector: Know your Rights and Obligations” is available online now!

July 31, 2023: A leaflet available in 40 languages was published by the European Labour Authority (ELA) aiming at posted workers in construction sector, highlighting the rights of posted workers during their postings and offer guidance on actions to take before and during the posting period. The information in the leaflet is applicable across sectors, not only in construction, and it outlines the terms and conditions of posting, advises workers on necessary steps, and informs them about what they are not obliged to do.

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European Union

Study on seasonal workers and intra-EU labour mobility published

July 28, 2023: The European Commission (EC) published a study on seasonal workers and intra-EU labour mobility, complementing the 2021 seasonal work study. The report focuses on key challenges in seasonal work and examines four main destination countries: **France, Germany, Spain, and Italy.**

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European Union

ELA Tech Conference: call for papers now open!

July 21, 2023: The European Labour Authority (ELA) is launching a call for papers on AI/ML tools supporting labour mobility, hosting a tech conference for this purpose. Submissions are open till October 15, 2023. Several topics, including labour market analysis, job matching, public services, ethical concerns, upskilling, and others are invited. The aim is to explore AI/ML’s role in enhancing labour mobility and addressing related changes.

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European Union

[How to recognize fake documents: ELA organized a training on document fraud](#)

June 23, 2023: On June 20-21, 2023, a training was organized by the ELA in Amsterdam addressing document fraud detection for labour mobility inspectors across the EU. The training highlighted various forms of document fraud, emphasizing verification techniques and profiling. Trainers from the Netherlands, Germany, and Denmark shared insights and cases. Attendees learned to identify fraudulent documents and were introduced to tools for documents authenticity verification.

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European Union

[Annual Conference on labour mobility at the European Labour Authority's \(ELA's\) Headquarters](#)

June 20, 2023: On June 20, 2023, the ELA 2023 Annual Conference was held in Bratislava, Slovakia, focusing on "Labour Mobility's future: trends and prospects." The conference comprised of sessions covering digitalization, changing work patterns, and social protection's role.

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European Union

[Good Practice Awards](#)

June 20, 2023: On June 20, 2023, the European Labour Authority (ELA) held Good Practice Awards at Bratislava conference, yielding twenty practices for 2022. It was focused on seasonal work and road transport. Arbeit und Leben DGB/VHS Berlin-Brandenburg from Germany and EURES (the European jobs network) Slovakia, Central Office of Labour, Social Affairs and Family were given awards for seasonal work. Polish National Labour Inspectorate was given awards for road transport and others.

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European Union

[Inspection of compliance with the EU labour- and social security rules in road transport](#)

June 15, 2023: Between May 8-14, 2023, the European Labour Authority (ELA) and ROADPOL (European Traffic Police Network) organized inspections involving 11 EU member states to enhance road transport compliance, focusing on workers' rights, driving and resting time, posting conditions, and working conditions. 142 vehicles were checked, revealing 135 infringements, 115 enforcement officers from 11 countries participated, aiming to tackle irregularities and improve inter-authority cooperation.

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European Union

Road transport: Commission calls on Belgium, Bulgaria, Denmark, France, Italy, Hungary, Malta, Poland, Slovenia and Finland to correctly transpose rules on posting of drivers

July 14, 2023: The European Commission (EC) initiated infringement procedures by sending a formal notice to Denmark and France for not notifying all measures transposing Directive (EU) 2020/1057 on posting of drivers into national law. The EC also issued reasoned opinions to Belgium, Hungary, Malta, Bulgaria, Italy, Poland, Slovenia, and Finland for their incomplete notification of transposed measures under the same directive, giving them two months to respond before potential referral to the European Court of Justice (CJEU). The directive was supposed to be adequately transposed into national legislations by February 2, 2022.

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Court of Justice for European Union (CJEU)

CJEU Ruling clarifies status of temporary workers

July 2023: CJEU ruled in case C-427/21 ALB FILS Kliniken GmbH that the EU directive on temporary agency work does not apply in a situation when a worker is transferred definitively by the employer to a third-party undertaking. This ruling has consequences for national legislations across the EU, including in Estonia. In the Estonian law, obligations from transferor companies, including employment contracts, move to transferees and consent is not required for transfer unless legally mandated. As a result of this ruling, changes to the Estonian laws will need to be implemented.

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Germany

Expansion of workers posting laws to include road transport sector approved by German parliament

June 2023: The Federal Government adopted the draft bill under which, the law on posting workers will extend to the road transport sector in the future. The bill incorporates an EU directive for posting of workers in road transport and was approved by the committee on labour and social affairs in an amended version, with plenary adoption the next day.

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Germany

State labour court ruled on a worker leasing case involving multiple companies

June 2023: The State Labour Court (LAG) ruled on a case that revolves around temporary agency work involving a range of arrangements with different companies. A company delegated instruction rights to a second company, including employee direction in specific cases. The second company, in turn, authorized a third company to oversee its workforce and business operations. LAG determined that this setup constituted the leasing of workers to the second company, based on contextual circumstances.

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Italy

[Labour mobility: European Commission \(EC\) decides to refer Italy to the Court of Justice of the European Union \(CJEU\) for maintaining discrimination of foreign lecturers](#)

July 14, 2023: The EC opted to bring Italy before the CJEU due to its inability to put an end to the discrimination faced by foreign lecturers. According to EU law, individuals should not be subjected to bias based on nationality when it comes to employment rights. Although Italy has suitable laws for reconstructing foreign lecturers' careers, many universities have not properly enacted these measures, causing discrepancies in salaries and benefits. Despite previous proceedings, these discriminatory practices persist, prompting the EC to take the matter to CJEU.

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Netherlands

[Dutch Supreme Court ruled in a cross-border employment dispute involving a temporary work agency and a pension fund](#)

June 2023: The case revolved around a disagreement between Presta, a Luxembourg-based temporary work agency, and VLEP, a sector-based pension fund from Netherlands. The Court of Appeal's ruling was based on contract law and choice of law, but the Supreme court stated that the protection's comparison between Dutch and Luxembourg laws should have been assessed.

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Norway

[EFTA surveillance authority questions Norway's restrictions on temporary agency workers, citing complex application of EU Directive](#)

July 2023: The European Free Trade Association (EFTA) Surveillance Authority issued a formal notice to Norway over alleged excessive restrictions on temporary agency workers. In some instances Norwegian legislation bans a use of temporary workers at all, while in others it puts specific constraints on a use of temporary workers making it difficult for businesses in Norway and businesses posting workers to Norway to navigate in the landscape of temporary agency work. Norway has two months to reply, otherwise EFTA may refer the case to the EFTA court for a final clarification of this issue.

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Norway

[Amendments to posted workers regulations introduce worker protections in the transport sector and right to legal action](#)

June 2023: The authorities in Norway implemented the revisions to the posted workers regulations in line with the EU legislation. Notable changes encompass the posting of workers in transport sector, affording posted workers the right to file lawsuits in Norway for their entitled working and wage conditions under the posted workers regulation. Additionally, provisions safeguard posted workers from retaliation when pursuing legal or administrative action to claim their rights.

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Poland

Poland enacts law improving working conditions and remuneration for posted road transport drivers

July 2023: On July 28, 2023, the Parliament approved the law on posting of drivers in the road sector in Poland, aligned with the EU directives. The law enhances drivers' working conditions and eases road transport operators' operations. It extends to issues related to remuneration and amends the law on working time of drivers. It also sets the fines for violations, simplifies the remuneration calculation and allows payment in two instalments.

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Poland

Posted Employees' Remuneration and Documentation Obligations for Lorry Drivers

August 21, 2023: On August 1, 2023, Poland's Supreme Administrative Court clarified in their ruling on posting of workers that cost of travel and accommodation cannot be treated as constituent part of a worker's remuneration. As such, cost of travel and accommodation cannot be charged to the worker and must be borne by the employer.

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Key Contacts



Thomas Wolf

Head of KPMG's Global Immigration Network
T: +49 30 530 199-300
E: twolf@kpmg-law.com



Michelle Berners-Price

EMA Head of Business
Travel Services for Global Mobility
T: +44 79 205 908 36, +44 20 731 121 10
E: Michelle.Berners-Price@KPMG.co.uk



Dan Foster



Daida Hadzic

EMA Head of Quality for Global Mobility

Head of Posted Worker Directive
Services for Global Mobility
T: +41 79 452 60 15, +41 58 249 68 75
E: danielfoster@kpmg.com

T: +31 65 324 45 99, +31 88 909 18 54
E: hadzic.daida@kpmg.com

social.kpmg



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