

# EU POST LAB

**Developing experiences of administrative cooperation and enhanced access to information  
in the framework of the posting of workers**



## PRELIMINARY REPORT

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## INTRODUCTION

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The EU Post Lab project, co-funded by the DG Employment, Social Affairs and Inclusion of the European Commission, is aimed at supporting administrative cooperation and information exchange at transnational level in the field of posting of workers in the construction sector.

The project stems from the findings of the Post-Lab project, which assessed a set of practices capable of easing compliance with rules concerning the posting of workers, as well as for detecting fraud. The results of Post-Lab, which suggest pathways for improving cooperation and data sharing in the field of posting of workers in the construction sector, are detailed in the related Guidelines and Final Report<sup>1</sup>.

EU Post Lab focuses on the role administrative data play in the identification of fraud in relation to the posting of workers, and entails the creation of a prototype database for strategic data sharing at transnational level.

To this aim, the project brings together a network of stakeholders from 10 EU Member States.

Kicked off in October 2016, the project is expected to run for 24 months; its core activities can be summarised as follows:

- during the initial phases, the project partners implement desk and field research activities to analyse existing national databases relevant to Directive 96/71/EC (Posting of Workers Directive) and to Directive 2014/67/EU (Enforcement Directive) in all the addressed countries, their contents and features, the authorities managing them (monitoring and enforcement bodies or other authorities), and how they fare in reflecting the actual conditions of employment, as well as in identifying abuses and circumvention of the abovementioned directive;
- afterwards, the partners define and implement a prototype database to allow for digital information sharing between relevant authorities and stakeholders, with a focus on sectoral funds of the construction sector. In fact, in many EU countries, these funds intermediate wage elements to be adjusted according to the host country's applicable provisions, like the holiday pay. The database shall be built in such a way as to share key information in the posting of workers area, such as: the establishment of the posting company in the sending country; the existence of the employment relationship with the posted worker in the sending country; and the regular payment of the wage elements intermediated by the relevant funds. It will be linked with web modules in order to allow employers to easily declare the posting of workers to the relevant funds, as well as with sources of information on terms and conditions of employment in the covered countries. The creation of this tool benefits from information produced by desk and field research, covering features of existing information-sharing experiences and providing a picture of the authorities possibly interested in sharing information; and
- as a final step, the project partners elaborate and disseminate – in all the languages of the project – a set of recommendations explaining how to make the most of the database, and what further cooperation, monitoring, and enforcement measures could support the goal of avoiding misuse or circumvention of the Posting of Workers Directive while easing the posting of workers.

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<sup>1</sup> See: <http://www.fondazionebrodolini.it/en/projects/post-lab>.

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# 1 ADMINISTRATIVE DATA AND COOPERATION IN THE POSTING OF WORKERS AREA

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## 1.1 SCOPE OF THE ANALYSIS

The analysis took as a starting point the elements necessary in order for monitoring and enforcement bodies to determine whether a case of posting is lawful or not.

To this aim, the research departed mainly from the provisions of the Enforcement Directive that set out a list of elements necessary to verify whether the establishment of an undertaking in a country is genuine (Article 4(2)), and whether workers are posted for a temporary period (Article 4(3)).

In particular, Article 4(2) requires Member States to make an overall assessment of all the factual elements characterising the activities performed, including:

- (i) the place where the undertaking has its registered office and administration, uses office space, pays taxes and social security contributions and, where applicable, in accordance with national law has a professional licence or is registered with the chambers of commerce or professional bodies;
- (ii) the place where posted workers are recruited and from which they are posted;
- (iii) the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other;
- (iv) the place where the undertaking performs its substantial business activity and where it employs administrative staff; and
- (v) the number of contracts performed and/or the size of the turnover realised in the Member State of establishment, taking into account the specific situation of, *inter alia*, newly established undertakings and small and medium-sized enterprises (SMEs).

These elements closely resemble those used for assessing whether, in case of posting, the attachment to the social security system of the sending country, allowed by Article 12 of Regulation (EC) No. 883/2004, is lawful.

Similarly, Article 4(3) requires that the assessment of the temporary nature of posting take into account comprehensively the following factual elements:

- (i) the work is carried out for a limited period of time in another Member State;
- (ii) the date on which the posting starts;
- (iii) the posting takes place to a Member State other than the one in or from which the posted worker habitually carries out his or her work according to Regulation (EC) No. 593/2008 (Rome I) and/or the Rome Convention;
- (iv) the posted worker returns to or is expected to resume working in the Member State from which he or she is posted after completion of the work (or the provision of the services) for which he or she was posted;
- (v) the nature of activities;
- (vi) travel, board, and lodging or accommodation is provided or reimbursed by the employer that posts the worker and, if so, how this is provided or the method of reimbursement; and
- (vii) any previous periods during which the post was filled by the same or another (posted) worker.

Finally, Article 9 of the Enforcement Directive entitles Member States to impose on undertakings posting workers to their territory, the obligation to submit a declaration covering a range of information meant basically to identify the establishment, the posted workers themselves, and the temporary nature of posting.

Declarations may include: (i) the identity of the service provider; (ii) the anticipated number of clearly identifiable posted workers; (iii) contact person(s) for the competent authorities and unions; (iv) the

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anticipated duration and the expected beginning and end date of the posting; (v) the address(es) of the workplace; and (vi) the nature of the services justifying the posting.

Starting from these premises, and drawing from the knowledge basis of the Post-Lab project, the project partners drafted a questionnaire aimed at finding out the following information for each covered country: (i) the availability of databases covering information on the payment of wages and social security contributions, workers' careers and occupations, and activities of companies in the construction sector; (ii) the availability of databases containing information on workers posted from/to their countries; and (iii) the availability of a list of company-level information useful to verify the lawfulness of posting<sup>2</sup>.

In particular, the first part was meant to inquire about the existence of data useful to tackle the hot issues of misconduct in the payment of wages, which shall be aligned with the rates of pay applicable in the host country, and in the payment of social security contributions, generally due in the sending country. By seeking information on workers' careers and occupations, it also meant to glean information necessary to ascertain compliance with Article 3 of the Posting of Workers Directive, requiring posted workers to be normally employed in the sending country, and to verify whether the wage complied with the minimum rates applicable to a specific occupation or level of experience.

The second part addressed the existence of the declaration on posting, referred to in Article 9 of the Enforcement Directive, and of other relevant data on posting taking place from or to each covered country, as well as how this information is stored. Whenever in place, such databases can ease data matching if a request about a posted worker or a posting undertaking is made.

Finally, the third part took into account the elements listed in Article 4(2) of the Enforcement Directive with a view to identifying whether relevant variables are available in the covered countries, and whether they are accessible online to users other than the staff of the managing authority.

These include:

- (i) **place of registration of the company:** first and foremost, it is necessary to check whether an undertaking is registered in the sending country. Whenever a company is posting workers without them being registered in the sending country, this may reveal a fraud, especially whenever, as is the case with construction workers, teleworking is hardly an option;
- (ii) **location of offices/plants:** the location of offices/plants is an indicator to determine where the company is actually established. In the case of construction companies, which may operate without plants and have one or more administrative offices, this information gains relevance more with respect to the enforcement of duties or sanctions than to monitoring. On the other hand, the same office may be registered as the place of establishment of many letterbox companies;
- (iii) **turnover realised in the country:** similarly, the Enforcement Directive calls for the assessment of the share of turnover realised in the country of establishment. Clearly, a company realising most of its turnover in the country of establishment can hardly be deemed a letterbox company, especially as far as the construction sector is concerned, whereas a low share of turnover in the country of establishment may suggest a weak link with the declared country of establishment;
- (iv) **overall turnover:** as information under point (iii) may already require a good level of disaggregation, the research also set out to identify the overall turnover, which may be a useful starting point for inspection purposes;

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<sup>2</sup> A second part of the questionnaire, which is dealt with in the Assessment Report, focused, instead, on the structure of the minimum wage in the country, on the use of administrative data to detect irregular employment, and on evidence of fraud. This part was meant to assess especially any gaps in the level of minimum pay across countries, and the misalignment between administrative data and factual reality.

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- (v) **regular payment of taxes in the country / of social security contributions:** these indicators help to reveal whether a company does pursue activities in a country, as it is supposed to pay taxes in the place of establishment, and social security contributions in the place of employment;
  - (vi) **occupations of staff employed in the country:** also the place where the staff is recruited shall be taken into account, as this should normally operate in the sending country; and
  - (vii) **payment of wages:** information on the payment of wages is necessary to identify whether the remuneration declared/paid in the sending country complies with the minimum rates of pay applicable in the host country, as set out in Article 3 of the Posting of Workers Directive.

The analysis was implemented in a set of selected EU countries, including: Belgium, Bulgaria, France, Germany, Italy, Poland, Portugal, Romania, and Spain.

All in all, the analysis revealed that most information is available in all the covered countries, with major difficulties reported by Poland.

As expected, company-level information hardly detects the share of turnover realised abroad; therefore, the direct accessibility, by foreign authorities, of administrative files can hardly be taken as a basis.

At the same time, with a view to supporting the understanding of similarities and differences – across the EU – of the wage structure in the construction sector, a section of the questionnaire centred on the rules concerning the setting of minimum wage levels in the covered countries, with a focus on: (i) how the minimum wage is set and, in particular, the role that the government and social partners play; and (ii) the structure of a construction worker's pay.

Country-level findings are reported in the next sections, and compared in the conclusions.

Finally, in order to understand to what extent administrative data can support the detection of fraud relevant in the case of posting of workers, evidence of non-compliance with wage provisions and other conditions of employment in each covered country was explored in the questionnaire, along with the use of administrative data to detect such cases. Findings were subsequently complemented with interviews with: country-level stakeholders and experts, including labour inspectors; officials from national social security institutions and sectoral funds; unionists and representatives from employers' organisations; and experts working on the databases identified as relevant to the project.

These aspects are described in the twin Assessment Report, which analyses how administrative cooperation at national and transnational level fares in detecting fraud in the area of employment and social security contributions, as well as any areas for improvement.

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## 2 COUNTRY-LEVEL FINDINGS

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### 2.1 BELGIUM

#### Databases covering information on workers and companies active in the construction sector

##### DIMONA

**Managing authority:** Federal Public Service Social Security – public

**Description:** DIMONA works as an electronic database covering all declarations of employment and of termination of employment contracts, to be filed by employers. It includes complementary information on employees as well, such as their wages, useful for public authorities and workers themselves for monitoring purposes.

Employers can also benefit of a simplified on-line register through DIMONA, with information on all their workforce.

**Remarks:** -

**Accessible online:** no

**Link:** [https://www.socialsecurity.be/site\\_fr/employer/applics/dimona/index.htm](https://www.socialsecurity.be/site_fr/employer/applics/dimona/index.htm)

##### Checkinetwork

**Managing authority:** Federal Public Service Social Security – public

**Description:** Checkinetwork is the online service registering the presence of workers in the immovable property sector and in activities relating to the meat sector.

As to the construction sector, the system covers everyone working on an immovable property at a workplace whose total costs are equal to or higher than € 500,000.

Checkinetwork is linked to the Declaration of Employment filed in DIMONA.

The responsibility for registration lies both with the subject that is sending someone to work, and with the person carrying out the work. They shall have a mutual agreement in place defining who completes the registration, and both parties shall check that the registration has been finalised.

Checkinetwork covers employees, temporary agency workers, self-employed workers, and posted workers.

**Remarks:** -

**Accessible online:** no

**Link:** [https://www.international.socialsecurity.be/working\\_in\\_belgium/en/checkinetwork.html](https://www.international.socialsecurity.be/working_in_belgium/en/checkinetwork.html)

##### Crossroad Bank for Enterprises (CBE)

**Managing authority:** Federal Public Service Economy – public

**Description:** CBE stores basic data of enterprises and their individual business units, and communicates them to the various competent authorities. CBE assigns each company and individual business unit a unique

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company identification number. Thanks to this number, the authorities can exchange relevant information. Thus, the entrepreneur is supposed to communicate the same information to the authorities only once.

CBE contains the following relevant data for all companies:

- business number and business unit number;
- external identification number;
- name of the company and of business units (social, commercial, and abbreviated name for businesses);
- address of the registered office, of the branch, and of any business unit in Belgium (as well as cancellation of the address, if applicable);
- type of business (business person or entity);
- company status;
- legal form;
- legal situation;
- contact details of the company or of the business unit (phone, email, fax, and website);
- financial information (e.g. amount of the share capital, end date of the financial year, and, if applicable, start and end date of the exceptional accounting year, and date of the ordinary general assembly);
- dates of creation and termination of the business or business unit;
- duration of the business, if applicable;
- *ex officio* cancellation following a failure to submit the annual accounts;
- identification data of founders, agents, and attorneys;
- entrepreneurial capacities;
- economic activities of the company;
- bank account(s); and
- authorisations and licenses granted to the company, or the classification adopted by the various departments, authorities, and administrations for declaration purposes. Such classification includes:
  - commercial or artisan company;
  - employer subject to social security;
  - company subject to value added tax (VAT);
  - non-commercial private-law enterprise (e.g. self-employed professional, liberal professional, or service provider);
  - foreign company not established in Belgium but established in an EU Member State, or non-EU company (established outside the EU);
  - alternate contractor;
  - foreign company active in the construction sector; and/or
  - registered contractor.

In addition, the database is linked to the documents of the legal persons, filed in commercial courts' registers, as well as to annual accounts and balance sheets filed with the National Bank of Belgium (BNB-NBB).

**Remarks:** -

**Accessible online:** yes; access is limited to selected data (some applications are free of charge, whereas other inquiries entail the payment of a fee).

**Link:** <https://economie.fgov.be/en/themes/enterprises/cbe-my-enterprise/services-everyone/cbe-public-search>

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## Workers posted from Belgium

The Gotot OUT database is an online service where employers can register and apply for the necessary documents for the posting of a Belgian worker. It is administered by the Belgian National Social Security Office (NSSO).

## Workers posted to Belgium

Every posted employee must submit the LIMOSA-1 declaration to their Belgian client or principal prior to the beginning of the working activity. Data from these declarations are stored in a database.

If a posted person cannot submit the LIMOSA-1 declaration, the Belgian principal or client will have to report this to the Belgian government.

However, some categories of people are exempted from such an obligation because of the nature or short duration of the activities carried out in Belgium.

In addition, an employer that has submitted the LIMOSA declaration or enjoys an exemption in this regard is also exempted, for a period of 12 months, from the obligation to submit some social security documents, as well as to comply with certain rules.

Beyond the LIMOSA declaration, there are other obligations to be complied with. Businesses in the construction sector shall notify social security authorities of any construction works they engage in. Entrepreneurs signing a construction contract with a principal (contracting authority) on the Belgian territory have to file a relevant declaration, in addition to registering employees<sup>3</sup>.

Employers posting workers to Belgium shall also register with Checkinetwork.

## 2.2 BULGARIA

### Databases covering information on workers and companies active in the construction sector

#### Database on Employment Agencies

**Managing authority:** Employment Executive Agency (Ministry of Labour and Social Policy) – public

**Description:** the database covers information from the authorisation to labour intermediation, released by the Employment Executive Agency. This contains: the employment agency's name and the address of the headquarters and of the registered office (or principal place of business, if different from the registered office); phone number; registration certificate number and date; registration validity; territorial scope (Bulgaria or other countries); and ministerial order number and date of termination (for intermediary companies whose registration has expired).

**Remarks:** the reliability of the database was questioned by one of the experts interviewed, who declared that the monitoring activities carried out on intermediaries focus on mere formal compliance with law requirements.

**Accessible online:** yes

**Link:** <https://www.az.government.bg/intermediaries/>

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<sup>3</sup> International Social Security, 'First Visit', available at: [https://www.international.socialsecurity.be/working\\_in\\_belgium/en/first-visit.html#panel02Tab01](https://www.international.socialsecurity.be/working_in_belgium/en/first-visit.html#panel02Tab01).

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## Commercial Register and Register of Non-Profit Legal Persons (NPLE) and of Branches of Foreign Non-Profit Legal Persons (BULSTAT Register is integrated)

**Managing authority:** Registry Agency (Ministry of Justice) – public

**Description:** the database covers information on all enterprises/traders and the branches of foreign enterprises/traders, as available from declarations and official documents. Applications made by these businesses to the Registry Agency (as is the case with firm registrations) can be downloaded. More in detail, data include: company name; unified registration number; legal status; head office and registered office; scope of business activity; managers; any pending legal acts; the articles of incorporation; any filed insolvency procedures; legal cases; appointments (history and relevant documents); and capital (amount, paid-in capital, and non-cash capital contributions).

**Remarks:** -

**Accessible online:** yes

**Link:** <https://public.brra.bg/CheckUps/Default.ra>

## Central Professional Register of Builders

**Managing authority:** Bulgarian Construction Chamber (BCC)

**Description:** the database is an online platform covering the construction sector, in which enterprises enter data by themselves. It includes information regarding companies' staff members (disaggregated by occupation) and company status.

In particular, for each builder, the following information is reported: name; legal form; management system; legal representative; head office and address for correspondence; address; quality management system (if available); and membership in professional associations.

The register also contains additional information on any projects performed in the country and abroad (including the year, name, and location of construction sites, the contracting authority, contractors and subcontractors, and the volume of works).

Finally, the figures from the financial reports of the last three years are available, including net income, revenue, long-term tangible assets, and headcount.

**Remarks:** Albeit data are entered by companies, they are checked by BCC through a two-level procedure: at regional level, by experts from the regional departments of the Central Professional Register of Builders (CPRB); and at national level, by a specialised commission of CPRB.

At least 1% of all registered companies are subject to an annual random check carried out by the abovementioned commission.

**Accessible online:** yes

**Link:** <http://register.ksb.bg/>

## Workers posted from Bulgaria

There is no comprehensive and centralised information on posting taking place from Bulgaria. As far as social security is concerned, the competent authority is the National Revenue Agency (NRA), which releases statistics on posting taking place from Bulgaria. According to social partners in the construction sector, an online database is planned to be established and will be made accessible through the website of the General Labour Inspectorate Executive Agency of the Ministry of Labour and Social Policy.

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## Workers posted to Bulgaria

There is no comprehensive and centralised information on posting to Bulgaria.

## 2.3 FRANCE

### Databases covering information on workers and companies active in the construction sector

#### Commercial Court Register (Trade and Companies Register, RCS)

**Managing authority:** Commercial Court – public

**Description:** the database covers companies established in the private sector, providing data compiled by the Commercial Court on the basis of the information released by the company (statute, act of incorporation, and annual balance sheet). Data include variables such as: location of the headquarters and establishments; registration number; activity as classified according to the NAF code (similar to the NACE code); and date of establishment.

The company is identified by an official document called 'Extrait K-Bis', which is made available online. It is also possible to consult: the annual balance sheet of the company; any situation of indebtedness; the statute; any changes the company has undergone (e.g. sale of shares, change of ownership, change of activity, etc.); and information about collective insolvency procedures.

**Remarks:** companies may opt to keep their annual accounts confidential. Fines for non-compliance with communication duties are quite low (€ 1,500).

**Accessible online:** yes

**Link:** [www.infogreffe.fr](http://www.infogreffe.fr)

#### SEQUOIA

**Managing authority:** Central Agency of Social Security Organisations (ACOSS) – public

**Description:** since January 1997, the SEQUOIA database has been centralising information on the number of employees and payroll taxes (calculated at a flat rate) from social security contribution slips. It has approximately 600,000 accounts active on a monthly basis, and 1,300,000 accounts active on a quarterly basis. Through these accounts, the collection of social security contributions can be monitored.

The database is compiled by the managing authority through the monthly or quarterly declarations for the payment of social security contributions, submitted by companies. In addition to economic data, which make it possible to monitor the evolution of the workforce and payrolls, the database contains administrative information, notably the company's registration number (SIRET), the company name, the size in terms of headcount, the NACE code of activity, the place of establishment, as well as the legal status of the company. The administrative information relating to the activity and the legal category is in most cases the result of data matching with RCS.

**Remarks:** the database cannot be freely accessed. National authorities from other EU Member States may submit information requests to ACOSS in the framework of administrative cooperation patterns.

**Accessible online:** no

**Link:** <http://www.acoss.fr/home/observatoire-economique/sources-et-methodologie/sources/sequoia.html>

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### Database of Declarations prior to Hiring (DPAE)

**Managing authority:** Organisations for the Collection of Social Security and Family Benefit Contributions (URSSAF) / ACOSS – public

**Description:** the database contains information to be provided by all private employers and by public bodies hiring an employee with a private-law employment contract through a website (70% of cases), on paper (10%), or other dematerialised tools (20%).

Information covers: the legal name of the company, or the full name of the employer; the NAF code; the company registration number (SIRET); the company address; the occupational health service the employer is affiliated to; employees' personal information and, if applicable, their social security number; the date and time of hiring; and information relating to the employment contract (type of contract, duration, etc.).

**Remarks:** companies can decide not to observe the communication duties or to delay the provision of information. It can actually take several years before the company owner is imposed a fine, which is quite low (€ 1,500).

**Accessible online:** no

**Link:** <http://www.acoss.fr/home/observatoire-economique/sources-et-methodologie/sources/declaration-prealable-a-lembauch.html>

### Social Security Declarations Database (DSN)

**Managing authority:** ACOSS – public

**Description:** this database provides data on employees, based on monthly compulsory declarations by employers, which cover: personal details of employees and employers; employees' professional situation, which includes the information contained in their employment contract; details on the employees' monthly remuneration; and information relating to events occurring during the declared period, including start and end dates of working periods in relation to accidents or non-occupational diseases, and maternity, paternity, or adoption leave.

The database includes data codified with a view to easing checks or statistical analysis, and it is possible to query it based on the value of specific variables. Available in digital form, it can be accessed online only by authorised users.

**Remarks:** -

**Accessible online:** no

**Link:** <http://www.acoss.fr/home/observatoire-economique/sources-et-methodologie/sources/sequoia.html>

### Information System on the Professional ID Card (SI-CIP)

**Managing authority:** Union des caisses de France (Union of French Funds, UCF) – private non-profit association managed by the employers' organisations of the construction sector

**Description:** the database contains the information necessary to obtain the professional ID card, which employers have been obliged to apply for since 2017 as to any employees to be hired in (or posted to) France in the construction sector.

The database contains the following details: name, surname, and gender of the employee; delivery date and ID number; type of employment contract; copy of the residence permit; photo; address of the paid leave

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funds of the constructor sector that manage the professional ID card scheme; name and ID number of the employer (even in case it is from another Member State); workplace; and expected duration of works in a determined construction site. In case of posting, the employer shall explicitly indicate that the employee is a 'posted worker' or a 'posted temporary worker'.

The information provided by the professional ID card is linked to the [National Database of Posting of Workers Declarations](#), so that any supervisory authorities will be able to check whether an employee is correctly declared as a posted worker. For each employee that is not declared, the employer could be imposed a fine of € 2,000.

The information is available to different supervisory authorities (according to [Article L8271-1-2](#) of the French Labour Code), which can have access thereto through an electronic code shown on the professional ID card or through a website requiring an identification process.

**Remarks:** companies can decide not to observe the communication duties or to delay the provision of information. It can actually take several years before the company owner is imposed a fine, which is quite low (€ 1,500).

**Accessible online:** no

**Link:** <http://www.cibtp.fr/accueil/>

### **Workers posted from France**

The A1 database is managed by the EU and International Liaison Centre for Social Security (Cleiss), the liaison body for social security coordination purposes. The access to the database, called 'SIRDAR', is restricted to French supervisory authorities (pursuant to [Article L8271-1-2](#) of the French Labour Code) and social security bodies, which shall submit a request to be approved by Cleiss. ACOSS stresses that tests are currently being carried out in the framework of the Electronic Exchange of Social Security Information (EESSI) database, which is aimed at enabling access, as of 2019, to all A1 certificates released by national authorities across the EU. Currently, national authorities have no direct access to the national databases storing A1 certificates. Therefore, they have to ask the competent national institution each time they need to assess whether a foreign company is correctly registered and is paying the applicable social security contributions in the country of origin.

Furthermore, ACOSS and URSSAF cooperate with other countries with a view to developing targeted information exchange patterns aimed at identifying, by crosschecking data, any companies abusing posting. As an example, between France and Belgium, the exchange of information (which does not result in direct access to files) has made it possible to identify companies that were moving to Belgium, with very little activity in France, which means they only paid part of the applicable social security contributions. In these situations, adjustments are made. Contacts are being made with other countries (Italy, Luxembourg, and Poland) to develop similar exchange patterns and to take action against those employers that do not fulfil their obligations in the country of origin.

### **Workers posted to France**

In order for posting to take place, all employers based outside France that intend to provide services in the country must submit an advance declaration to the labour inspection branch of the place where the service is to be provided. To facilitate this process, the government has set up a [website](#) where employers must complete an online declaration including several details.

The information to be provided includes the identification details of the company (professional register, register reference number, main activity, address, phone, email, etc.) and of the manager (name, date of

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birth, and birthplace). The company must also provide the name and contact details of its representative in France, as well as of the principal (same contact details as those mentioned above). The company shall also provide details on posted workers' employment conditions: start and end date of the service; use of dangerous materials, or implementation of hazardous procedures; start and end time of the working activity; number of days off per week; and use of a shared accommodation solution. Furthermore, the company shall indicate how meal and accommodation expenses are taken into account (no costs are charged, costs are directly paid by the employer, expenses are paid by workers and then reimbursed to them, or a lump sum is paid).

The declaration shall also contain information about each posted worker: identification and contact details; date of contract signature; start and end date of the current period of posting; and post held in France. The company shall specify whether the employee will work in the construction sector, and provide information about its professional qualification, the relevant collective agreement, the position or coefficient pursuant to the conventional classification, and the gross monthly salary in France (in euros) or equivalent if the posting is supposed to last less than one month.

These data are available in a database that can be used by the Labour Inspectorate but also by different supervisory authorities (Social Security Inspectorate, tax administration, etc.) mentioned in [Decree no. 2016-1044](#). The information contained in the database can be consulted by the Labour Inspectorate and by the competent authorities and liaison offices from all other Member States, as mentioned in Article 3 of the Enforcement Directive. Data are partially available to other supervisory bodies: the authorities in charge of monitoring road transport; tax and customs officers; and the Social Security Inspectorate<sup>4</sup>.

Moreover, [Decree no. 2016-1748](#) governs the interoperability between, on the one hand, the Information System on International Service Provisions (SIPSI) and, on the other, the database set up to manage the compulsory ID card of the construction sector (SI-CIP).

The body managing the SI-CIP database, UCF, informs by any means the service provider established abroad (or, if applicable, its representative in France) of the obligation to submit – through the dedicated website – a photo of each posted worker, to specify the gender, the type of contract and, if applicable, the number of the work or residence permit, as well as to instruct the online payment of the fee required to obtain the ID card. After the fee has been paid, UCF shall send the ID card (or, whenever applicable, a provisional certificate validating the ID card) to the service provider established abroad (or, if applicable, to its representative in France).

## 2.4 GERMANY

### Databases covering information on workers and companies active in the construction sector

#### SOKA-BAU databases

**Managing authority:** SOKA-BAU – sectoral fund

**Description:** the databases cover all registered construction companies in the construction industry, including details on the company's premises and employees, periods of posting, total gross wages, working hours, and construction sites, as well as on some aspects of employees' qualification and on the payment of wage elements intermediated by sectoral funds.

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<sup>4</sup> See also: [Decision no. 2016-160](#); [Decision no. 2016-347](#); and [Decree no. 2016-1748](#).

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Information is shared with customs authorities, and is used in case of checks with a view to crosschecking their validity.

**Remarks:** -

**Accessible online:** no

**Link:** <http://www.soka-bau.de>

### **Register of Companies/Trade Register**

**Managing authority:** Federal-State Administration of Justice Department of North Rhine-Westphalia

**Description:** the database covers information on companies established in Germany. The register is comprised of two departments. Department A includes information on individual companies, partnerships, and profit-making associations (abbreviated as 'HRA'), whereas Department B covers stock corporations (abbreviated as 'HRB'). The register includes information on: the company; the place of business, and the address; the place where branch offices are located; the purpose of the company; the authorised representative (e.g. board members, managing director, owner, and personally liable partner); the legal status; the share capital; limited partners and members; and other legal aspects (e.g. transformations, insolvency procedures, and dissolution).

**Remarks:** the database, which covers all German States, can also be accessed in other languages such as English, French, Italian, and Spanish. As mentioned above, the managing authority is the Federal-State Administration of Justice Department of North Rhine-Westphalia. However, each State has local registration courts (i.e. county-level courts that manage and administer specific registers such as the Trade Register). In order to register, companies should resort to one of the registration courts.

**Accessible online:** yes; basic information can be accessed online free of charge. Other documents can be downloaded upon payment of a fee (around € 3 or less for most documents) or after registration.

**Link:** <https://www.handelsregister.de/>

### **Workers posted from Germany**

There is no specific database on posting taking place from Germany. However, in those cases in which a German company is posting workers to a country where a similar institution exists (e.g. Italy or Austria), they contact SOKA-BAU to obtain an exemption certificate as they are contributing to SOKA-BAU in Germany, and thus do not have to pay social security contributions in the host country where the posting takes place. The employer needs to submit a declaration to SOKA-BAU, including a list of workers who will be sent abroad. For these companies, SOKA-BAU has information on: the employer's number; the company; workers' registration number; last name, first name, and date of birth; and the period of posting.

### **Workers posted to Germany**

Construction companies posting workers to Germany shall submit a declaration to SOKA-BAU. The database contains information on foreign employers, their workers, construction sites, the period of posting, total gross wages, working hours, some aspects of workers' qualification and the payment of wage elements intermediated by sectoral funds.

## **2.5 ITALY**

### **Databases covering information on workers and companies active in the construction sector**

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## INPS databases (Archivi INPS)

**Managing authority:** National Institute of Social Security (INPS) – public

**Description:** the databases cover companies' compulsory declarations necessary for the monitoring of social security contributions paid by employers (UNIEMENS), as well as records of payments for self-employed workers.

Thanks to the possibility of merging different databases into a single one by using the tax ID number, the databases make it possible to have – for each year – detailed information on workers and companies, which are also registered under a unique ID code.

**Remarks:** -

**Accessible online:** no; at the following page, it is possible to download metadata and to apply for an anonymised sample for research purposes: <https://www.cliclavoro.gov.it/Barometro-Del-Lavoro/Pagine/Microdati-per-la-ricerca.aspx>.

**Link:** [www.inps.it](http://www.inps.it)

## Business Register (Registro delle Imprese)

**Managing authority:** Infocamere (consortium of the Chambers of Commerce) – public

**Description:** the register includes information on the social capital, the location of offices and related costs, as well as companies' assets and debts.

The database can be consulted online upon payment of a fee. Information about each company can be downloaded in pdf format. The budget sheet can be downloaded in electronic format as well. According to the information available online, it is also possible to extract specific information from the database.

**Remarks:** the shares of income realised, respectively, in Italy and abroad are not always available. As to the number of employees, information reliability is low as this information has a merely statistical purpose, and does not have to correspond to the precise number of people working for a company.

**Accessible online:** yes

**Link:** [www.registroimprese.it](http://www.registroimprese.it)

## National Database on Irregular Companies (Banca Nazionale delle imprese irregolari, BNI)

**Managing authority:** National Paritarian Commission for the Casse Edili (CNCE) – paritarian organisation

**Description:** the goal of the database is to check the regularity of payments – by all construction companies operating in Italy – into the local sectoral paritarian funds (the Casse Edili). The database does not have any statistical purposes. The local Cassa Edile can verify its data entries, and check company records. BNI operates in conjunction with the databases administered by the National Institution for Insurance against Accidents at Work (Inail) and INPS to release the Unified Document Certifying Labour Compliance (DURC), which certifies companies' compliance with: (i) the payment of wage elements intermediated by the Casse Edili; (ii) the payment of social security contributions into INPS; and (iii) the payment to Inail, of premiums for insurance against accidents at work.

Data sources are compulsory declarations by companies on payments made for workers covered by the Casse Edili (i.e. blue-collar workers employed by construction companies).

**Remarks:** -

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**Accessible online:** no

**Link:** -

### **Database on Seniority Pay (APE Database)**

**Managing authority:** CNCE – paritarian organisation

**Description:** the database contains the workers' register, which details the hours declared to each local sectoral fund (the competent Cassa Edile) for each blue-collar worker in construction companies operating in Italy. The database is also used for statistical purposes inasmuch as it provides information on workers' nationality, age, and geographical areas of origin. At national level, CNCE can also access data.

**Remarks:** -

**Accessible online:** no

**Link:** -

### **PREVEDI Database**

**Managing authority:** Supplementary Pension Fund of Workers in Industrial and Artisan Construction Companies and the Like (PREVEDI) – paritarian fund

**Description:** the database receives information from workers (concerning mostly their personal details), the local sectoral paritarian funds (the Casse Edili), and companies, with some data being inputted by the PREVEDI staff itself on the basis of documentations available on paper (like the amount of contributions paid for each worker). These data are processed by a software application for the payment of the supplementary pension scheme and for statistical purposes. All companies applying the most representative National Collective Bargaining Agreements covering the construction sector shall register with PREVEDI, and are obliged to pay contributions for their workers into the supplementary pension fund.

**Remarks:** -

**Accessible on-line:** no

**Link:** <http://prevedi.it/>

### **Workers posted from Italy**

Partial information is available. In fact, construction companies posting their employees to Germany, France, Austria, and San Marino can request to be exempted from the payment of contributions to sectoral funds there established pursuant to bilateral agreements signed by the sectoral fund intermediating holiday pay and other wage elements in those countries. In this case, they shall provide the Italian sectoral funds (the Casse Edili) with information concerning: the registration number or company identification code; the place where the workers are to be posted; the type of activity; the name of the client; the start and end dates of posting; the names of posted workers; and the period of posting for each of them. This opportunity is granted only upon verification of compliance with previous intermediated wage elements due; moreover, information is shared with the relevant sectoral fund abroad.

### **Workers posted to Italy**

Posting undertakings shall make an advance declaration online. This contains information on: the service provider (sending employer) and the hosting company, including the NACE code of activity, and the place of registration; the legal representative and the contact person, including the phone number and email address; the duration of posting; the place where the posting takes place; and the name, surname, date and place of

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birth, and citizenship of workers to be posted. There is also a field on workers' occupation, but it is not mandatory.

By means of a company ID number of the service provider, information is linked to previous postings. Both the service provider and hosting companies shall register with a specific platform. No information is available on whether this platform is linked or not with INPS databases.

## 2.6 POLAND

### Databases covering information on workers and companies active in the construction sector

#### ZUS registers

**Managing authority:** National Social Security Institution (ZUS) – public

**Description:** ZUS registers include: the Central Register of Members of Open Pension Funds; contribution payers' records and the Central Register of Contribution Payers; individual retirement accounts; voluntary retirement accounts; the Guaranteed Employee Benefits Fund; the Labour Fund; and the database containing A1 forms and derivatives. They provide a range of comprehensive information covering employees, self-employed workers, and companies on the basis of data submitted through self-declarations for the payment of social security contributions. On a monthly basis, ZUS collects and aggregates data, and asks for clarifications if needed.

**Remarks:** data regarding the payment of social security contributions are quite accurate inasmuch as it is ZUS itself that maintains the accounts.

Data on A1 forms reflect the number of forms issued, but are not a reliable indicator of the number of workers involved, as they cover each posting separately (irrespective of whether the same worker is posted more than once).

In the case of companies' declarations in the A1 form, ZUS has limited possibility to check the declared data, although in theory it should be able to state, by analysing the social security contributions paid, how long the company has been operating, as well as how long a posted worker has been an employee of a given company. Further inquiries are not possible inasmuch as information on the functionality of the social security databases is not made public.

**Accessible online:** no

**Link:** <http://lang.zus.pl/en/>

#### Knowledge basis of the National Tax Administration, legal acts, and Database on Tax Payers

**Managing authority:** National Tax Administration and Tax Offices – public

**Description:** the database covers information from mandatory tax reports that must be submitted by all companies active in the country. The Database on Tax Payers allows for the identification of records from each covered company, and is deemed to be reliable since criminal liability arises in case of provision of false data. No information is available on the structure of the database.

Databases are currently used for statistical purposes, but data are not made available directly at international level.

**Remarks:** -

**Accessible online:** no

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Link: <http://www.kis.gov.pl/informacje-podatkowe-i-celne/baza-wiedzy>

### **National Court Register (KRS)**

**Managing authority:** Ministry of Justice – public

**Description:** KRS represents the main source of information about existing enterprises, types of activity, date of establishment, and rules of operation. It is the main tool to identify Polish companies that post workers, and provides information on where offices and business units are located, as well as about contact persons.

**Remarks:** -

**Accessible online:** yes

**Link:**

<https://www.ms.gov.pl/en/national-registers/national-court-register/electronic-access-to-the-national-court-register/>

### **National Register of Official National Economy Entities (REGON)**

**Managing authority:** Central Statistical Office (GUS) – public

**Description:** each Polish company shall be registered with REGON, and is consequently given a REGON ID number. The register is a source of information on economic entities operating in the country. Its major strength is that it is updated on an ongoing basis, which allows for the provision of always up-to-date data. It is for this reason that REGON is considered one of the best sources of information for statistical surveys. Among other things, REGON provides information on: contact details of companies; codes of activity; names of legal representatives; and dates of establishment.

**Accessible online:** yes

**Link:** <https://wyszukiwarkaregon.stat.gov.pl/appBIR/index.aspx>

### **Workers posted from Poland**

The database containing A1 certificates, which is managed by ZUS, is the only complementary database providing information on workers posted from Poland. There is no direct online access to data on the posting of workers (online). On demand, ZUS provides processed information related to specific sectors.

### **Workers posted to Poland**

Collective data on the posting of employees to Poland are held by the Labour Inspectorate. The relevant database is however not publicly available. On demand, the Labour Inspectorate provides information on employees posted to Poland, including data disaggregated by sector.

The assessment of the legality of employment in Poland is carried out by the Labour Inspectorate, which acts as a liaison body in the area of posting.

## **2.7 PORTUGAL**

### **Databases covering information on workers and companies active in the construction sector**

#### **Staff Members Database (Quadros de Pessoal, QP)**

**Managing authority:** Office of Strategy and Planning (Gabinete de Estratégia e Planeamento, GEP) of the Ministry of Labour and Social Security – public

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**Description:** the database provides information on companies' structure (establishment, economic activity, location, share capital, legal status, and size of turnover), workers (employees, occupations, employment status, education and training, gender, date of birth, admission date, type of contract, contract duration, and nationality), remuneration (basic wage, regular bonuses and allowances, irregular allowances, and overtime compensation), work duration (paid monthly hours and overtime), and relevant collective bargaining agreement.

The database is compiled by the managing authority on the basis of compulsory self-declarations submitted by companies. Data are also crosschecked by the authorities under the national statistics system, which inhibits fraud to some extent.

Data are codified with a view to easing checks or statistical analysis; moreover, numerical data are summarised according to classes. The database is available in digital format, and is accessible to specific users.

**Remarks:** -

**Accessible online:** no

**Link:** [www.gep.msess.gov.pt/estatistica/emprego/qp.php](http://www.gep.msess.gov.pt/estatistica/emprego/qp.php)

#### **National Information System of Inspection Activities (Sistema de Informação Nacional de Atividade Inspetiva, SINAI)**

**Managing authority:** Authority for the Monitoring of Working Conditions (Autoridade para as Condições de Trabalho, ACT) – public

**Description:** the SINAI database covers all inspection activities by ACT, and is structured in different modules such as: health and safety; work accidents; inspective procedures; and posting. In the case of posting, each entry in the database corresponds to a posting contract, which may comprise a variable number of workers (failure to notify a posting contract, which is still a common practice, entails the payment of a fine).

The database provides information on: the company itself (trading name, address, classification of the economic activity, year of establishment, tax ID number, and social security number); its specific profiles (risk assessment, occupational health and safety report, and history of previous inspections); workers; and accidents. It also includes detailed data on the inspections carried out (occupational accidents, industrial licensing, authorisation inspections, number of notifications, number of official news documents, and number of warnings and reports) and on posting (employer, name of workers, identification number, professional category, date of birth, place of work, host company and country, and period of posting).

The system allows for reading and crosschecking of information, and provides support in managing and organising inspection activities.

ACT already shares data on posting with inspection authorities from other EU countries within the Internal Market Information System (IMI).

**Remarks:** the managing authority deems the database to be quite reliable since fraud is subject to heavy fines. However, the software used is outdated, and the database itself is cumbersome and difficult to update, and does not provide real-time data (for instance, the list of companies comprises many businesses that no longer exist, and fails to include the new ones that have been established in the meantime). In the case of posting, in which the availability of data depends on the declarations companies are supposed to submit to inspection authorities, there is still a big gap since many companies fail to submit the required declaration due to lack of awareness.

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**Accessible online:** no

**Link:** [www.act.gov.pt](http://www.act.gov.pt)

### **Workers posted from Portugal**

The Portuguese Labour Code was revised to establish the obligation upon employers to provide information on posted workers. The main authorities involved are ACT (Autoridade para as Condições de Trabalho, Authority for Working Conditions) and the Social Security Institute.

### **Workers posted to Portugal**

There is a lack of comprehensive and centralised information on posting taking place in Portugal. ACT started collecting data on posting taking place in Portugal as late as in 2017, following the transposition of the Enforcement Directive; such data are now being compiled in the framework of the SINAI database.

## **2.8 ROMANIA**

### **Databases covering information on workers and companies active in the construction sector**

#### **Register of Employees in Romania (Revisal)**

**Managing authority:** Labour Inspectorate of the Ministry of Labour – public

**Description:** the database covers information on companies and workers active in all industries. Registration is compulsory for all companies (including subsidiaries of foreign companies active in Romania) and self-employed workers. Companies must register all their employees, and declare their wages. Data regarding companies may also be obtained from the regional Chambers of Commerce.

In particular, as to companies, the information covered includes: the registration number at the Chamber of Commerce; the field of activity; and the number of employees.

Although data cannot be freely accessed, the Romanian liaison office uses them to respond to requests from foreign authorities.

**Remarks:** -

**Accessible online:** no

**Link:** <https://reges.inspectiamuncii.ro>

#### **Database of the National Chamber of Commerce and Industry of Romania (National Office of the Chamber of Commerce and Industry)**

**Managing authority:** Ministry of Justice and National Office of the Romanian Chamber of Commerce and Industry – public

**Description:** the database covers data regarding companies (including State-owned companies, cooperatives, financial institutions, groups of companies, EU companies of economic interest, EU cooperatives, self-employed workers, and family companies as registered with all the documents required by law), as well as the identity of professionals operating these entities.

In particular, the database provides the following data: company name; main office address; tax ID number; registration number; status of the company; contact details (phone and fax number); subscribed capital; main activity; secondary activities as declared; subsidiaries or branches; shareholders; associate members and administrators; selected information from the balance sheet; average number of employees; and profit and

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loss (only provided such information must be provided by law). In order to access data, it is necessary to register online as a user. Some data are available free of charge, while some others entail the payment of a small fee.

**Remarks:** -

**Accessible online:** yes

**Link:** <http://ccir.ro/>, <https://portal.onrc.ro/ONRCPortalWeb/ONRCPortal.portal>

### **Workers posted from Romania**

Companies are obliged by law to submit a written declaration to Revisal in relation to any workers posted abroad; such document shall include the location (country, full address of their subsidiaries, and sites) and the list of posted workers, as well as covering their skills, wages, and bonuses.

### **Workers posted to Romania**

The submission of a written declaration in relation to workers posted to Romania has been compulsory since 2016.

The employer is obliged to notify the Regional Labour Inspectorate (RLI) of the posting at least one business day prior to the start date (under the previous regime, the notification had to be submitted at least five days prior to the start date).

Employers shall provide the following information:

- details of the recipient organisation, including the district where the organisation is located;
- details of the sending company, including its full name, address, and tax ID number;
- name and surname of the legal representative of the foreign company in Romania;
- details of the representative of the company in Romania, who is appointed to liaise with labour authorities;
- full name, address, and tax ID number of the company in Romania;
- period and purpose of the assignment; and
- full name, date of birth, citizenship, Romanian ID document number, and job title (in Romania) of the posted worker.

As to non-EU workers, a second declaration containing their details is mandatory.

Such communications must be submitted in Romanian.

## **2.9 SPAIN**

### **Databases covering information on workers and companies active in the construction sector**

#### **Register of Accredited Enterprises (Registro de Empresas Acreditadas, REA)**

**Managing authority:** Ministry of Employment and Social Security, and regional labour authorities – public

**Description:** the register provides basic information about construction companies (address, city, country, main activities, etc.). However, information on the payment of wages and social security contributions, careers, and occupations is not included. The main purpose of the database is to ensure that companies contracting or subcontracting other companies to carry out construction activities check whether the latter are in line with legal requirements.

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The database is compiled by the managing authority of each Autonomous Community or Province, once it has been verified that the company requesting accreditation meets the requirements set out in Article 4 of Law no. 32/2006 on subcontracting in the construction sector. Such requirements include:

- having adequate infrastructure and resources to carry out the activity;
- managing and controlling workers directly, and assuming risks and liabilities linked to the activity;
- proving that the staff has completed the training required concerning health and safety at work, as well as risk prevention; and
- proving that the company has an adequate risk prevention mechanism in place.

**Remarks:** It is worth noting that the REA database does not record information on wages. Indeed, being jointly liable for unpaid wages, many clients recur to voluntarily adopted platforms in order to have a more comprehensive picture on wage payments and other aspects concerning the employment relationships in contractor and subcontractor companies.

**Accessible online:** yes

**Link:** <https://expinterweb.empleo.gob.es/rea/>

### **Central Business Register (CBR)**

**Managing authority:** National Statistics Institute (INE) – public

**Description:** CBR brings together in just one information system, all Spanish enterprises and their local units located throughout the country. Its basic goal is to facilitate the carrying out of economic sample surveys. CBR is based on primary data from various administrative and statistical sources.

**Remarks:** -

**Accessible online:** no

**Link:** [http://www.ine.es/en/metodologia/t37/t3730201\\_en.htm](http://www.ine.es/en/metodologia/t37/t3730201_en.htm)

### **General Affiliation File (Fichero General de Afiliación, FGA)**

**Managing authority:** Social Security Institution (Tesorería General de la Seguridad Social) – public

**Description:** the database provides a complete, up-to-date census of companies and workers registered with the system. It contains information on workers' affiliated status within a company, affiliation number, address, company situation (turnover), number of workers, and workers' registration with another company. Data, entered by companies, are managed and verified by the Social Security Institution.

**Remarks:** -

**Accessible online:** no

**Link:**

<http://www.seg-social.es/wps/portal/wss/internet/InformacionUtil/5300/1889/7019/39263/1198/1204>

### **Professional Training Card (TPC) Database**

**Managing authority:** Labour Foundation (Fundación Laboral) – paritarian institution

**Description:** the database is a register containing information on construction workers' careers. It covers data on workers' training in occupational safety and health, data on sector-related training completed by workers, and information about workers' working life, the companies in which they have worked, the positions they have held, and the functions performed throughout their working life.

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All these data are updated on a five-year basis.

**Remarks:** -

**Accessible online:** no; the database is private.

**Link:** -

### **Workers posted from Spain**

The only database that contains information on posting, relevant to preventing fraud or abuses is CBR, which was described above. This database covers all national and foreign companies willing to be contracted or subcontracted to implement a project within the construction sector. Registration certifies that the company complies with the requirements for the prevention of risks in the workplace, pursuant to Royal Decree no. 1109/2007. For companies that provide cross-border supplies, a simplified procedure is available, which includes the following provisions:

- they shall prove compliance with the applicable requirements in terms of training, by submitting documentation showing fulfilment of the obligations set out in the national legislation transposing Articles 7 and 12 of Directive 89/391/EEC; and
- they shall submit a registration request, which must include a declaration that the company fulfils solvency requirements, as well as a statement about the nature of its business.

Registration is not necessary in case of posting shorter than eight days.

### **Workers posted to Spain**

There is no centralised database about workers posted to Spain. Data on posted workers are gathered and managed by labour authorities at both regional (Autonomous Community) and national level.

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## 3 THE MINIMUM WAGE IN THE CONSTRUCTION SECTOR: A COUNTRY OVERVIEW

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### 3.1 BELGIUM

The minimum pay scales are, in principle, set for each business sector by the competent joint committee. The collective labour agreements concluded by these joint committees establish the basis to be used to calculate the pay levels for different qualifications and positions. These scales make up the gross wage. If a worker is posted to Belgium, the only applicable collective labour agreements are those that have been made mandatory (in other words, those that are backed up by criminal penalties in case of non-compliance).

The joint committee each company belongs to is identified on the basis of the main business activity in which the company itself engages. If a company falls within a business sector for which the joint committee has not set any minimum pay scale, the average minimum monthly income set on an inter-professional basis (in other words, the one that is applicable to the whole of the private sector) applies.

The wage structure of a construction worker is composed by the following statutory elements.

#### **Minimum pay**

Sectoral collective labour agreements lay down the minimum pay for both manual and clerical workers. The pay varies depending on the worker's position, skills ('professional qualification'), or professional experience. There are specific minimum pay scales for young workers.

Regular pay adjustments are included in the sectoral collective labour agreements. This means that all pay levels in the industrial sector, even the statutory minimum pay referred to above, are regularly increased in order to compensate the effects of inflation. The pay of construction workers is adapted on a quarterly basis.

The pay scales currently applicable can be found on the website of the Federal Public Service Employment, Labour, and Social Dialogue<sup>5</sup>.

As to construction, as of 2018, they range between € 14 and € 20 per hour depending on the qualification<sup>6</sup>.

#### **Loyalty and bad-weather stoppage benefits (intermediated by sectoral funds)**

Workers in the construction sector annually and automatically receive the so-called 'loyalty stamps' and 'bad-weather stoppage stamps' from the Employers' Office for the Organisation and Control of Welfare Schemes (OPOC-PDOK). These stamps are financed by statutory contributions paid by employers into the Occupational Welfare Fund in relation to construction workers.

The loyalty stamps scheme is part of the minimum working conditions set by the collective labour agreement with which foreign companies posting workers to Belgium to carry out construction works shall comply, in accordance with Belgian legislation. The principles of EU law and case law confirm this obligation but also leave room for some flexibility.

Under certain circumstances, foreign employers based in one of the EU Member States, and the workers they employ on a temporary basis in Belgium may benefit from this greater flexibility. For this reason, a benefit comparable to that of the loyalty stamps (such as the 13<sup>th</sup> month pay) must be granted to these workers over the period during which they are employed in Belgium, under the schemes their employers are subject to in the countries where they are based.

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<sup>5</sup> See: <http://www.emploi.belgique.be/searchCAO.aspx?id=4708#> .

<sup>6</sup> See: <https://www.salairesminimums.be/document.html?jclid=c206d961982d4ec6b997c7a485e0bf32&date=13/09/2018> .

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The loyalty stamps amount to 9% of workers' gross pay, and 'reward' them for their loyalty to the construction sector.

The bad-weather stoppage stamps amount to 2% of workers' gross pay. They provide compensation for losses that can be ascribed to bad weather, and are payable to employees who mainly work outdoors and find themselves unable to continue their work due to harsh meteorological conditions.

### **Accommodation and food**

Under the collective labour agreement governing construction workers' working conditions, the employer must provide workers with adequate food and accommodation solutions whenever the worker is employed in a workplace located at such a distance that they cannot return home every day. This provision is rarely applied to posted workers as they must have a place of residence in Belgium in order for their residence document to be issued.

A foreign employer may include the value of benefits in kind (such as food and accommodation) in the pay package, in compliance with the limits set under Belgian regulations. On the other hand, a foreign employer that voluntarily provides food and accommodation is deemed to be paying part of the pay package as a benefit in kind. Law provisions are in place to avoid over-computation of these amounts, as well as to combat any attempts by employers to make a profit out of the payment in kind.

### **Paid annual holiday (intermediated by the Fund for Leave of the Construction Sector, CCB-VKB)**

#### ***Determining the number of days of paid holiday leave***

The number of days of paid holiday leave is determined on the basis of the number of normal working days actually worked (or of days off treated as normal working days actually worked) that are declared to NSSO for the holiday year.

For part-time employees, the length of holiday leave is proportional to their working hours.

### **Night work**

Hours worked at night between 22:00 and 06:00 are paid at a rate of **125%** of pay. In this case, a 30-minute break is also granted without loss of pay, with a view to allowing workers to have a meal.

### **Saturday working**

Fifty per cent extra pay is granted for each hour worked on Saturdays, irrespective of whether or not the worker has opted for days off in lieu. If the worker opts for days off in lieu, this extra pay is paid when the work is actually performed, whereas the normal wage is paid when the days off in lieu are taken.

### **Wage allowances**

#### ***Special work/jobs in which workers are exposed to feelings of insecurity, apprehension, or concern***

Due to the specific characteristics involved in carrying out certain tasks, additional wage allowances are envisaged for special work/jobs exposing workers to feelings of insecurity, apprehension, or concern, in spite of the safety measures taken. These allowances range from 10% to 100%. Examples of special work/jobs include repair of slate roofs (10%) or structural construction works carried out at heights (10% to 40%, depending on the height).

#### ***Unhealthy, harmful, or difficult activities***

Specific wage allowances are due in reason of the particular nature of harmful or difficult activities, and are payable only for the period during which the activities referred to are performed.

The wage allowances granted for carrying out this type of work vary between 4% and 300%, and include activities like pistol painting (10%), working in tunnels that are already in operation (25%), or working with a thermal lance indoor (50%).

## 3.2 BULGARIA

The national minimum wage in Bulgaria is determined by the government.

With Decree no. 316/2017, the Council of Ministers decided that the new monthly minimum wage for the country, in force as of 1 January 2018, amounts to BGN 510 (€ 261), and the minimum hourly wage amounts to BGN 3.07 (€ 1.57); the normal duration of working time is set to be eight hours a day over a five-day working week, and the amount of the minimum wage is defined for a full working month.

A sectoral minimum wage is also in place, called the ‘minimum monthly insurable income’. As to the construction sector, this ranges between BGN 510 (€ 261) and BGN 878 (€ 449) depending on the employee’s position and skills. This minimum monthly insurance income is agreed on an annual basis between the social partners at national level, which submit the proposal to the Minister of Labour and Social Policy for the approval.

Whether social partners fail to reach an agreement, as it is the case for 2018, the procedure provides for the determination of the amounts of the minimum wage and of the minimum monthly insurance income by the government.

The minimum monthly insurance income is binding on every employer and enterprise active in the relevant sector. It is also obligatory both for contractors from other EU countries posting workers to Bulgaria.

Three different pay scales are in place for construction enterprises, covering the following economic activities (identified by the Classification of Economic Activities NACE):

- construction of buildings (NACE code: 41); civil engineering (NACE code: 42); and specialised construction activities (NACE code: 43);
- Construction of motorways, roads, and airfield runways (NACE code: 42.11); and
- construction of transmission and distribution systems, local electricity power lines, and communication lines (NACE code: 42.22).

**Table 1: Minimum insurable thresholds according to sector and profession for construction enterprises**

Sector	Qualified groups of professions	Minimum insurable amount
<b>F 41, 42, without 42.11, and 42.22, 43</b>	Managers	BGN 790 (€ 404)
	Analytical specialists	BGN 644 (€ 328)
	Technicians and application experts	BGN 623 (€ 319)
	Administrative personnel/ Supporting administrative staff	BGN 510 (€ 261)
	Qualified production workers and craftsmen related to them	BGN 603 (€ 308)
	Machine and facility operators and product assembly workers	BGN 603 (€ 308)
	Professions that do not require special qualification	BGN 510 (€ 261)
<b>Sector</b>	<b>Qualified groups of professions</b>	<b>Minimum insurable amount</b>
<b>F 42.11</b>	Managers	BGN 878 (€ 449)

	Analytical specialists	BGN 696 (€ 356)
	Technicians and application experts	BGN 634 (€ 324)
	Administrative personnel/ Supporting administrative staff	BGN 510 (€ 261)
	Qualified production workers and craftsmen related to them	BGN 634 (€ 324)
	Machine and facility operators and product assembly workers	BGN 634 (€ 324)
	Professions that do not require special qualification	BGN 510 (€ 261)
<b>Sector</b>	<b>Qualified groups of professions</b>	<b>Minimum insurable amount</b>
<b>F 42.22</b>	Managers	BGN 696 (€ 356)
	Analytical specialists	BGN 566 (€ 289)
	Technicians and application experts	BGN 535 (€ 274)
	Administrative personnel/ Supporting administrative staff	BGN 510 (€ 261)
	Qualified production workers and craftsmen related to them	BGN 510 (€ 261)
	Machine and facility operators and product assembly workers	BGN 510 (€ 261)
	Professions that do not require special qualification	BGN 510 (€ 261)

On top of the minimum pay for the sector, once a year of experience in the sector and in a given profession is acquired, an additional monthly remuneration is to be paid based on a worker's working and professional experience acquired in a job or profession of a similar nature. This wage supplement is calculated as a percentage of the basic labour remuneration (the minimum is 0.6%), as determined by the individual employment contract.

Employers shall also guarantee a minimum of 20 days of paid holidays a year for a full-time worker (pursuant to the Labour Code). Work on official holidays, regardless of whether it is overtime, shall be paid twice the amount of regular remuneration. No 13<sup>th</sup> month pay or bad weather pay is envisaged.

The law also sets out additional minimum rates for overtime work: 50% for normal working days; 75% for weekends; 100% for work on official holidays; and 50% for shift work on a weekly or monthly schedule (this is an exception for construction industry, being common in energy industry and manufacturing). In the absence of other provisions, the increase in accordance with the preceding paragraph shall be calculated on the basis of the remuneration agreed upon in the labour contract by the employee and the employer.

Night work shall also be paid at a rate agreed upon by the parties to the employment relationship, which shall in any case comply with the standard set by the Council of Ministers. For each hour (or part thereof) worked between 22.00 and 6.00, the worker shall be entitled to receive additional remuneration of no less than BGN 0.25 (€ 0.12).

When on duty travel, the worker shall be entitled, in addition to their gross pay, to receive reimbursement for travelling expenses, per diems, and accommodation allowances under terms and conditions to be determined by the Council of Ministers, and upon submission of supporting documentation. Posted workers shall be paid, upon submission of supporting documentation, travelling costs for the outward and return trip to reach the place of work. For workers posted within Bulgaria, a daily allowance of BGN 10 (€ 5.11) shall be

paid in case of a one-day business trip, and a daily allowance of BGN 20 (€ 10.23) in case of a business trip of more than one day.

In addition, the collective labour agreement sets mandatory wage levels and employment conditions only for the parties bound by the collective labour agreement, namely: BCC member companies, and employees members of the Construction, Industry, and Water Supply Federation (Podkrepa), and of the Federation of Independent Construction Trade Unions (FNSS)<sup>7</sup>. A new collective agreement is being negotiated by social partners as of 2018.

The last collective agreement was signed in February 2015 and remained in force until February 2017. As of 2018, social partners are negotiating a new collective agreement.

**Table 2: Annex 1 of the 2015-2017 collective labour agreement: minimum wage for the various categories of construction professions**

Wage Group	Correction coefficient <sup>8</sup>	Sectoral minimum wage (i.e. BGN 460 – € 235 – multiplied by the correction coefficient)
<b>Managers</b>	2.5	BGN 1,150 (€ 487)
<b>Analytical specialists</b>	2.1	BGN 966 (€ 493)
<b>Technicians and application experts</b>	2.0	BGN 920 (€ 469)
<b>Administrative personnel</b>	1.4	BGN 644 (€ 328)
<b>Qualified production workers and craftsmen</b>	1.9	BGN 874 (€ 446)
<b>Machine and facility operators and product assembly workers</b>	1.9	BGN 874 (€ 446)
<b>Professions that do not require special qualification</b>	1.2	BGN 575 (€ 293)

### 3.3 FRANCE

The legal minimum wage (SMIC) is adjusted annually on 1 January by the government (€ 1,498 as of 1 January 2018). It is indexed to inflation (without considering tobacco) for households that belong to the lowest disposable income quintile. Half of the growth in purchasing power of the average hourly wage for workers and employees is added to the result. If inflation exceeds 2% during the year, SMIC is automatically adjusted. In addition, the government may decide, at any time, to increase the minimum wage above the calculated rate. It is forbidden to pay workers a wage below the legal minimum wage even though sector-level collective agreements envisage lower wages. SMIC covers all employees with the exception of young workers under apprenticeship or State-subsidised employment contracts, who receive a reduced minimum wage.

In France, the construction sector is composed of two main branches: on the one side, building and specialised construction; on the other side, civil engineering. Both branches have each three national collective agreements covering different categories of employees. Minimum rates of pay have also different levels depending on employee qualification. All these agreements are 'extended', meaning that they are

<sup>7</sup> The text of the agreement is available in Bulgarian language at: [http://www.ksb.bg/images/NOVO1/OKTD\\_2015.pdf](http://www.ksb.bg/images/NOVO1/OKTD_2015.pdf).

<sup>8</sup> Calculation: sectoral minimum wage = national minimum wage (BGN 460 – € 235) x 1.25 = BGN 575 (€ 294); example: worker without special qualification (lowest category) = BGN 690 (€ 353).

The minimum basic monthly wage for *wage groups* is calculated by applying the correction coefficient to the sectoral minimum wage.

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declared as compulsory – by means of a ministerial order – for all employees and employers included in the scope of a branch.

In the framework of the six national collective agreements, social partners negotiate wage agreements at territorial level (regional or departmental level), except for managers and engineers (cadres). This level of collective bargaining allows social partners to take better account of the specificity of the local labour market. These territorial agreements too are extended. Their scope mainly focuses on wages and different bonuses (accommodation allowance, travel allowance, etc.).

Above the minimum rate of pay, construction workers are entitled to the 13<sup>th</sup> month pay, holiday pay, and bad weather pay, all intermediated by a sectoral fund.

Employers shall also provide a transport allowance to cover transport costs from the place where workers are accommodated, to the workplace, as well as a meal and accommodation allowance.

### 3.4 GERMANY

The German government passed the Minimum Wage Act, which is effective as of January 2015. In 2015, all workers in Germany received a general statutory hourly minimum wage of € 8.50 gross (transition periods applied to some sectors). In January 2017, the hourly minimum wage increased to € 8.84 gross, which remained unchanged for 2018. However, workers entitled to the minimum wage in the construction industry, as resulting from the collective agreement, are entitled to a higher minimum wage.

In the German construction industry, the minimum wage is set by collective bargaining. Collective agreements in the German construction industry are negotiated by two employers' organisations (Hauptverband der Deutschen Bauindustrie and Zentralverband des Deutschen Baugewerbes), as well as by the union Industriegewerkschaft Bauen-Agrar-Umwelt. The collective agreement was declared as generally binding by the Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales).

The minimum wage in the construction industry for 2018 is set at € 11.75 (Wage Group 1) and at € 14.95 (Wage Group 2). The main activity carried out by the worker during their working time determines whether a worker falls under Wage Group 1 or Wage Group 2. Jobs without or with lower qualification (e.g. cleaning, care, and maintenance of working tools) are classified as Wage Group 1, whereas the jobs entailing higher qualifications (e.g. formwork erector and plasterer) are classified as Wage Group 2. Finally, additional factors that may be taken into account are the worker's training, skills, and knowledge. It is worth mentioning that the wages in Wage Group 2 differ slightly between West Germany and Berlin. In West Germany, the hourly minimum wage is slightly higher (€ 14.95) than in Berlin (€ 14.80)<sup>9</sup>. The wage at the place of work applies unless the wage of the worker's place of employment is higher.

The obligation to pay these minimum wages concerns all companies whose main focus is on construction: this occurs whenever the proportion of total working hours spent by workers on construction activities exceeds 50% per calendar year. The collective agreement on minimum wages covers all workers in a construction company. The minimum wage is mandatory and inalienable for all domestic and posted workers.

Employers that are based outside of Germany must comply with the Posted Workers Act (AEntG) if they post workers to Germany. AEntG applies to employers of all sectors whose working conditions are regulated by law. If working conditions are regulated by collective agreements (particularly with regard to minimum wages and minimum days of leave), AEntG applies only to employers in specific sectors (one of them being the construction sector) pursuant to Books 2 and 3 of the Social Security Code. However, foreign employers are

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<sup>9</sup> See: <https://www.soka-bau.de/europa/gb/leave-during-posting/minimum-wages-in-the-german-construction-industry/>.

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only obliged to comply with the standards set in German collective agreements if these are mandatory also for all equivalent German employers by means of a declaration of general obligation or a legal ordinance.

In the construction industry, there are other collectively agreed wage elements in addition to the hourly minimum wage, which are subject to certain preconditions or are based on levies on wage: hardship allowances; allowance for travelling expenses; meal allowance; daily allowance; accommodation allowance; capital formation benefits; supplementary pension (with a share of contributions paid by the employer into SOKA-BAU); subsidies for collective agreement supplementary pension schemes; and 13<sup>th</sup> month pay (paid at the end of the year, and equalling 93 times the hourly wage).

The minimum wage is a gross amount calculated and paid as a sum of money. Non-monetary remuneration, according to which the employer grants certain benefits in a form other than money, is not permitted. The entitlement to receive the minimum wage is not dependent on the time of the day when a job is carried out, or on its circumstances or successful performance.

### **Examples of allowances or bonuses that are always included in the minimum wage calculation**

- Supplement for workers in the construction industry (Bauzuschlag)
- Allowances identified in the employment contract as the difference between the local wage and the applicable minimum wage
- One-off payments, such as the 13<sup>th</sup> month pay (so-called 'Christmas bonus') or additional holiday pay, are then classified as a component of the minimum wage, provided the worker is actually and irrevocably paid the **pro-rata** amount no later than the due date applicable for the minimum wage (always the 15<sup>th</sup> of the month following the month when work was carried out).

At sectoral level, SOKA-BAU intermediates wage elements, which are owed to posted workers as well, including:

- holiday pay for 30 working days (14.25%), set by collective agreements, and managed by SOKA-BAU; and
- additional holiday pay (25% of holiday pay), set by collective agreements, and managed by SOKA-BAU.

In addition, SOKA-BAU collects contributions for bad weather pay (Winterbeschäftigungsumlage) on behalf of the Federal Employment Agency (Bundesagentur für Arbeit), since the calculation basis and due dates for bad weather pay contributions are the same as for SOKA-BAU contributions.

Bad weather pay is considered to fall under social security legislation; therefore, it is not negotiated through collective bargaining.

**Allowances or bonuses are not considered to be a component of the minimum wage if they are paid on top of the hourly wage to compensate workers for particular difficulties and hardships. These bonuses do not apply to workers posted to Germany. Examples include:**

- more work per unit of time (piecework bonuses);
- work of above-average quality (quality bonuses);
- work under difficult or dangerous conditions (e.g. hazardous work allowance);
- work at particular times such as:
  - at night: the bonus amounts to 20% of the hourly wage;
  - on Sundays: the bonus amounts to 75% of the hourly wage; and
  - on statutory holidays: the bonus amounts to a maximum of 200% of the hourly wage; and
- overtime bonuses (if the worker has actually worked overtime pursuant to the national legislation applicable to the employment contract): the bonus amounts to 25%.

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Accommodation, board, and travelling costs paid to the worker as an allowance to cover the costs actually incurred because of the posting shall not be included in the minimum wage calculation either.

If the employer grants benefits in kind in addition to the wage, then the cash value of such benefits is not considered as a component of the minimum wage.

Company-level collective agreements may also entail additional variable pay, seniority pay, or other benefits.

### 3.5 ITALY

Minimum rates of pay are ruled in Italy by the National Collective Bargaining Agreements signed by the most representative social partners, and having a sectoral coverage.

As for the construction sector, provisions signed by social partners are roughly the same across the various collective agreements applying based on the company size.

In the following paragraphs, we will detail the structure of remuneration as per the collective agreement covering construction industries, the same selected as an example on the official national portal for the posting of workers.

Basic pay features seven different levels depending on workers' actual occupation, and, as to levels in force until June 2018, ranges from a minimum of € 1,364 for low-skilled blue-collar workers, to € 1,708 for highly skilled blue-collar workers; as to white-collar workers, basic pay ranges from € 1,364 for low-skilled clerks, to a maximum of € 2,225 for middle managers.

This structure is taken as a basis for the computation of other standard pay elements and of those paid occasionally. In particular, employers must pay a variable element of remuneration (EVR), whose amount is set at company level according to sectoral performance indicators, taking 4% of basic pay as a reference.

Furthermore, employers must pay a 18.5% share into to the Casse Edili as intermediated pay for holiday and the 13<sup>th</sup> month pay, an amount that can be increased by a maximum of 3 percentage points (p.p.) by local collective agreements.

The Casse Edili also intermediate seniority pay, whose amount ranges between 2.5% to 4.8% depending on the area of the country. A process of equalisation of this rate throughout the country is ongoing.

In order to guarantee the operativity of the Casse Edili, local agreements can set out the payment of a mandatory contribution (up to a maximum of 3%), five sixths thereof to be paid by the employer, and the remaining share to be subtracted from workers' payroll.

Further indemnities cover specific situations, such as: indemnity in lieu of meals and transport (wherever those are not provided by the employer); illness; night work; overtime; holiday work; and demanding jobs.

Finally, a compulsory contribution to construction-sector training schools, ranging from 0.5% to 1.5% depending on the Province, and a monthly contribution to the complementary pension fund (PREVEDI), ranging from € 8 to € 16 (depending on the occupation), apply.

The table below provides a simulation of the wage elements to be paid by a company for a month of work of a construction worker in the lowest pay grade.

**Table 3: Simulation of the sectoral minimum wage as per the collective agreement applying to the construction industry (large enterprises)**

Wage elements	Reference for the simulation	Amount	Recipient
<b>Basic pay</b>	Lowest pay grade (Level 1)	€ 1,364	Worker
<b>Variable pay (4%)</b>	4%	€ 55	Worker
<b>Contribution to sectoral fund (up to 3%, five sixths to be paid by the employer)</b>	2.5%	€ 34	Sectoral fund
<b>Seniority pay (2.5%-4.8%)</b>	3.7%	€ 50	Sectoral fund
<b>13<sup>th</sup> month pay + holiday pay (min. 18.5%)</b>	18.5%	€ 252	Sectoral fund
<b>Compulsory contribution to training schools (0.5%-1.5%)</b>	1%	€ 14	Sectoral fund
<b>Compulsory contribution to the sectoral pension scheme (€ 8)</b>	€ 8	€ 8	Sectoral fund
<b>Total amount</b>		€ 1,778	

Decentralised collective bargaining may provide for additional wage elements including individual bonuses, welfare bonuses, and contributions to be paid into the sectoral health fund, which are not considered to be part of the wage to be paid to posted workers.

Posted workers are neither covered by bad weather pay. Albeit this is paid by Casse Edili, which are then reimbursed by INPS, bad weather pay is part of INPS social security schemes, which are generally not applicable to posted workers.

### 3.6 POLAND

The minimum remuneration in Poland is defined by law, and its amount is determined annually. Theoretically, the minimum wage is set in negotiations with the Social Dialogue Council. The amount of remuneration can be agreed upon by the employers' side and the employees' side of the Social Dialogue Council. Since 2003, several efforts have been made in this regard; however, no agreement has been reached yet. As a consequence, the amount of the minimum wage is determined and regulated by the government.

The minimum wage (both monthly and daily pay) is subject to legal protection. Since 2017, guarantees cover employees hired under employment contracts, as well as workers performing working activities in the framework of civil law contracts (commission contracts). At the same time, social security contributions must be paid for both types of contracts.

There is no industry-level collective agreement or sectoral fund for the construction sector in Poland. All regulations regarding the minimum wage apply to the construction sector, unless the collective agreement states otherwise. However, company-level collective agreements are not common at all in the construction sector, and in practice payroll regulations (wage grid) are not concerned by their provisions. Provisions regarding wages in companies are usually contained in unilateral regulations and individual employment contracts.

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As of 1 January 2018, a regulation of the Council of Ministers sets the minimum wage for 2018 at PLN 2,100 (€ 504).

Along with the rise in the minimum rate of remuneration, the minimum hourly rate for specific civil law contracts has also increased (e.g. the so-called 'contract mandate'). Its amount is enhanced by an increase in the minimum rate of remuneration. The government has determined that the minimum hourly rate in 2018 is PLN 13.7 (€ 3.30) gross.

Regulations regarding seniority pay may be included in company-level collective labour agreements or company work regulations. In most construction companies (small and micro companies), regulations regarding seniority pay are not adopted.

The 13<sup>th</sup> month pay does not apply to the construction sector, whereas it can be found in the mining sector on the basis of collective agreements.

As to holiday, there is no holiday fund pursuant to Polish legislation. The employee is guaranteed 26 days' paid leave (20 days during the first year of work), and receives a monthly remuneration (without discretionary allowances). Bad weather pay is not envisaged either: employees hired under an employment contract receive their usual remuneration for a normal working day.

Additional pay or benefits, such as meal vouchers, may be established at company level through company work regulations or, more rarely, through collective agreements.

### 3.7 PORTUGAL

In Portugal, the minimum wage level is established by law, and applies to all employees in the country (€ 580 a month in 2018), whereas specific minimum wages are set for certain sectors. As to the construction sector, the mandatory minimum wages are set by the relevant collective work agreement<sup>10</sup>, which establishes specific minimum wages for the professional categories covered, as well as extra payment for night work and overtime. However, the collective work agreement has not reflected the increases in the minimum wage in recent years: the minimum wage is actually higher than the amount established by collective bargaining for most professional categories. Indeed, the agreement currently entails minimum levels ranging between € 558 and € 865.50 depending on the category, with even lower levels for apprentices.

The collective labour agreement also establishes that the posting of workers to another country is subject to a written agreement between the worker and the employer, which may establish the payment of a per diem or food allowance and of accommodation expenses.

Portuguese legislation does not envisage compulsory seniority pay and bad weather pay.

A sum equivalent to one monthly payment shall be paid as 13<sup>th</sup> month pay, and a further monthly payment is due as holiday pay. They are not intermediated by sectoral funds.

Allowances are envisaged with a view to remunerating workers under specific conditions, such as:

- overtime (entitlement to: a 50% increase in the basic hourly rate for the first hour of overtime worked each day; a 75% increase in the basic hourly rate for the second and subsequent hours of overtime worked each day; and a 100% increase in the basic hourly rate for all overtime worked on Saturdays, Sundays, and public holidays);

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<sup>10</sup> The text of the agreement is available in Portuguese language at:  
[http://www.aecops.pt/getfile.php?xp=2&src=file1975\\_pt&ext=pdf&fid=1975](http://www.aecops.pt/getfile.php?xp=2&src=file1975_pt&ext=pdf&fid=1975).

- night work (entitlement to an extra amount of between 30% and 45% of the basic wage);
- shift work (entitlement to an extra payment of between 25% and 35%);
- exemption from the agreed work schedule (entitlement to an extra amount of 22% of the basic wage);
- security duties (entitlement of an extra amount of 40% of the basic wage for carrying out security duties outside of normal tasks and of normal working hours in those workplaces where the presence of a permanent security guard is not justified);
- payments for transport to/from the new location, as well as for meals, in addition to remuneration at normal hourly rates for the time spent travelling in case of temporary work carried out outside the normal workplace (with workers returning home every day);
- full payment for, or provision of, board and accommodation, and provision of transport services, or payment of expenses incurred for travelling to and from work, in case of working activities carried out outside the normal workplace (with workers not returning home every day); and
- hardship allowance (corresponding to 25% of the basic wage).

Employees in the Portuguese construction sector are not entitled to meal vouchers, but to a food allowance for each day worked (€ 5.75 a day in 2016 for full-time employees or for part-time employees working more than five hours per day; if the number of hours worked is lower than five, the food allowance is proportional to the respective normal weekly working hours).

### 3.8 ROMANIA

In Romania, any sector-specific minimum wage cannot be inferior to the national minimum wage as established by the government through a decree law. The minimum wage (set at national, sectoral, or company level) represents the lowest compensation that can be applied to an unskilled worker. After the establishment, by the government, of the national minimum wage, which is set at RON 1,900 (€ 418) for 2018, any sector may start negotiations in order to adjust (i.e. to increase) its minimum wage level. If no negotiations are carried out in this regard, the sectoral minimum wage – pursuant to the Romanian legislative framework – is equal to the national one, and is compulsory.

The wage is established and calculated on a monthly basis, and cannot be below the level that has been set for a specific job, according to the worker's qualification status. The qualification status was established many years ago though a scale included in the collective agreement of the construction sector, having the minimum (company) wage as a basis. Following the amendments to the Romanian Labour Code, which introduced stricter rules on representativeness and on the extension of collective agreements, the collective agreement of the construction sector is no longer applicable to all sectoral employees, but is binding only for member companies of the employers' associations that have signed it. As a consequence, the scale is no longer generally binding.

The annual holiday pay is compulsory by law. It is calculated taking into account the total number of working days worked for an employer over a one-year time span. The paritarian sectoral fund – the Builders' Social Fund (CSC) – does not contribute thereto.

Seniority pay and the 13<sup>th</sup> month pay are not envisaged by Romanian legislation unless they are negotiated and set out through company agreements, which is usually not the case (especially in the construction sector). CSC does not contribute thereto.

A wintertime allowance is in place through CSC. Yet, this is applicable only to CSC member companies. The level of such allowance is calculated as 75% of the average wage paid to a worker before the beginning of the leave period. This period cannot exceed 90 calendar days per winter, from November to March. Only a limited number of companies are now members of CSC (fewer than 300 out of a few tens of thousands).

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Even when not envisaged by the collective agreement, the law sets out specific indemnities, such as:

- night shift hours (25%);
- weekend and national holiday work (50% to 100%);
- overhead work (10%); and
- underground work, e.g. tunnels and similar (25% plus special meal allowance prior to shift start).

Company-level agreements may also set other wage elements, such as:

- seniority (on a multi-year basis, i.e. 5% after three years, up to 25% after 20 years) – such element is less and less common;
- hard work (around 10%);
- hazardous work (10%); and
- bonuses given in the form of paid days off, including:
  - childbirth;
  - death of a very close family member;
  - military service; and
  - blood donation.

Companies may also offer meal vouchers worth up to RON 15 (€ 3.30) each per working day if the company agreement states so. However, pursuant to the Meal Vouchers Act, the company is obliged to eliminate such benefit in case of economic crisis.

### 3.9 SPAIN

In Spain, collective agreements are generally binding. The Spanish collective bargaining system is characterised by a medium degree of centralisation and coordination, as well as by a high collective bargaining coverage rate. Although multi-employer collective agreements have prevailed over company agreements in terms of workers covered, most analysts consider the model as neither decentralised nor centralised in view of the importance that multi-employer collective agreements concluded at provincial level have traditionally had.

In the construction sector, collective bargaining is carried out at both national and provincial level, with the involvement of a number of employers. Thus, a multi-tiered wage-setting system exists, in which the sectoral national collective agreement establishes the minimum gross annual pay for full-time workers, calculated on the basis of all pay elements to be received along with the wage. Workers are entitled to 30 calendar days' (or 21 working days') paid annual leave.

The specific amount of the wage to be paid is negotiated through provincial collective agreements, which thus set the applicable minimum wage.

The national collective agreement for the construction sector was in force between 2012 and 2016. Currently, negotiations are ongoing to conclude the new national sectoral agreement.

The minimum rate of pay established by the collective agreement for the construction sector concerns the following elements:

- basic salary;
- salary supplements (e.g. displacement allowances);
- extraordinary allowances (two extra allowances in July and December, i.e. the 13<sup>th</sup> and 14<sup>th</sup> month pay);
- overtime pay;

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- allowance for exceptionally toxic or hazardous work; and
  - night work.

There is not a bad weather pay in place. The national collective agreement set out lower level agreements shall agree on irregular working time patterns to compensate loss of working days due to bad weather.

Other additional variable pay elements and benefits can be regulated through company-level collective bargaining.

## 4 CONCLUSIONS

The preliminary research attempted to identify: (i) where relevant administrative information in the posting of workers area can be found at national level; and (ii) the wage levels workers are entitled to in the different countries covered by the project.

As to the first aspect, business registers are certainly the main source of information. These registers can help in identifying relevant contacts in the sending country, the headcount of the undertakings involved, as well as whether they have only recently been established in the sending country.

Indeed, in this respect, the EU has already made significant steps forward. National registers are becoming progressively available through a single EU web portal (e-Justice), where also information from some national registers on insolvency proceedings can be accessed.

The other main source is represented by social security contribution records, which can help to verify workers' career and the payment of contributions.

In the light of the possibility of tackling the phenomenon of letterbox companies by holding their clients liable towards workers, it is interesting to highlight the presence in Spain of a register aimed at tracking contracting out in construction. Joint liability, on the one side, and the possibility of easily tracking down the supply chain, on the other, have pushed employers into adopting their own management systems to make sure workers are paid the due wages by their employers.

As far as minimum rates of pay are concerned, the most striking differences underlined by the analysis lie with: (i) the amount of the minimum wage, as set by collective bargaining or law; and (ii) the circumstances entitling workers to receive additional wage elements. A summary of the monthly wage, the standard working time, and the most common wage elements relevant in case of posting are provided in the table below.

**Table 4: Comparison of key wage elements and standard working time per country (2018)**

Country	Minimum monthly wage	Standard working time	Bad weather pay	Holiday pay	13 <sup>th</sup> month pay
<b>Belgium</b>	€ 2,450 - € 3,500 (h. 175 hours)	40	Yes (sectoral fund)	Yes (sectoral fund)	Yes (sectoral fund)
<b>Bulgaria</b>	€ 261	40	No	Yes	No
<b>France</b>	€ 1,498 or higher	35	Yes (sectoral fund)	Yes (sectoral fund)	Yes (sectoral fund)
<b>Germany</b>	€ 2,033 - € 2,586 (h. 173 hours)	41 (April-November) and 38 (December-March)	Yes (sectoral fund)	Yes (sectoral fund)	Yes
<b>Italy</b>	€ 1,364 - € 2,225	40	Yes (sectoral fund)*	Yes (sectoral fund)	Yes (sectoral fund)
<b>Poland</b>	€ 504	40	No	Yes	No
<b>Portugal</b>	€ 568 - € 865.50	40	No	Yes	Yes
<b>Romania</b>	€ 418	40	No	Yes	No
<b>Spain</b>	€ 1,160 - € 1,346	40	No	Yes	Yes

Key: h. = hypothesis \* Being part of social security schemes, this is generally not applicable to workers posted to Italy

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The most striking differences concern the minimum wage, which ranges from € 261 in Bulgaria to about € 2,450 per month in Belgium, i.e. 10 times higher. In the presence of such significant differences, it is expected that attempts are made to take advantage of the single market by unduly exploiting wage gaps between Member States. Countries with lower wage levels are also those where wage bargaining is carried out mostly at individual or company level, with multi-employer collective bargaining having suffered forms of deconstruction over the last decade, which reduced their ability to bring wages up.

Sectoral funds also represent a feature common to a number of countries, requiring proper information sharing between funds or between funds and relevant authorities or employers, with a view to avoiding that contributions are paid twice, workers are not paid the indemnities they are entitled to, or employers fail to pay contributions.

In this regard, effective cooperation at transnational level, and information support for employers and employees remain key aspects for the smooth and proper application of the rules on the posting of workers.