

ACCESS TO INFORMATION ON THE POSTING OF WORKERS

Construction Companies' Practices and Challenges



Sonila Danaj, Kristina Toplak, and Mojca Vah Jevšnik (eds.)

ACCESS TO INFORMATION ON THE POSTING OF WORKERS: CONSTRUCTION COMPANIES' PRACTICES AND CHALLENGES

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INTRODUCTION

Sonila Danaj

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This book presents the issue of access to information in the posting of workers. The authors identify and assess the practices and challenges of construction companies involved in the posting of workers, either as posting companies sending their workers to provide a service from one European Union (EU) country to another or as a user company that receives the services provided by posting companies and their posted workers. The chapters in this book contribute to the debates on the posting of workers by filling a gap in understanding how transnational posting companies and user or receiving companies find and use information in their interaction with national institutions and how that affects their overall performance in terms of the correct application of the posting rules and the protection of labour and social standards. The studies focus on the specific case of the construction sector as one of the main sectors where posting occurs (De Wispelaere et al., 2020) and where both larger companies and SMEs as well as self-employed are active. Consequently, this sector covers a great diversity of “companies”, allowing for a stratified understanding of posting and receiving companies’ challenges.¹ The book consolidates the findings of the transnational research project titled “Assessment of the channels of information and their use in the posting of workers” (INFO-POW), co-funded by the European Commission and implemented in Austria, Belgium, Italy, Slovakia, and Slovenia during 2022–2024.

The provision of services through posting has become one of the most important cross-border labour mobility forms. In 2021, there were around 1.7 million cross-border workers in the EU and EFTA (European Free Trade Association), while 3.6 million postings were distributed among an estimated

1 In this book, the authors in the different chapters use the terms “undertaking” and “company” interchangeably. Likewise, they refer to the undertakings/companies in the receiving countries who make use of the services of posted workers either as *user* undertakings/companies or *receiving* undertakings/companies interchangeably.

2.6 million individuals (Hassan et al., 2023). The literature on the posting of workers has underlined the complexity of the regulatory posting regime and its implications for the companies and workers involved (Arnholtz & Lillie, 2020; Bottero, 2020; Danaj et al., 2021; Houwerzijl & Berntsen, 2020). Of particular concern have been matters of “regime shopping”, rule avoidance and circumvention, and the vulnerability of posted workers exposed to unequal and often precarious terms and conditions (Arnholtz & Lillie, 2023; Cremers, 2020; Houwerzijl, 2014; Berntsen & Lillie, 2015; Lillie & Wagner, 2015). In these studies, it is argued that posting companies intentionally choose the national regulatory regime that is more convenient for them and circumvent other regulations that might be costlier or otherwise inconvenient. However, the authors also recognise that many posting companies are often just confused about the rules by which they must abide (see Berntsen & Lillie, 2015; Houwerzijl & Berntsen, 2020).

Access to information has been identified as one of the key aspects relating to rule compliance in the posting of workers. The main challenges reported by the existing academic and grey literature include accessing the information on applicable terms and conditions of employment, the administrative requirements for service providers and receiving companies, the quality of the information provided, and the capacities of posting and receiving companies to find and make sense of the information on posting to abide by the applicable regulations (Cillo, 2021; Čaněk et al., 2018; Cukut Krilić et al., 2020; Danaj et al., 2021; De Wispelaere et al., 2021; European Commission, 2019; Eurofound, 2020; Kováčová et al., 2021; Zólyomi & Danaj 2019).

In fact, access to information is explicitly referred to in the EU posting regulations. The regulatory framework of posting underlines the importance of access to information for posting companies and for workers, not only in terms of rights but also in the function of regulatory compliance. The Posting of Workers Directive (Directive 96/71/EC) established minimum standards for posted workers, such as working conditions, wages, and social protection. In addition, Directive 2014/67/EU on the Enforcement of Directive 96/71/EC concerning the posting of workers stipulates the establishment of coordination mechanisms among Member States and the provision of tools for better control and inspection of employers’ compliance with posting

rules. Paragraph 18 of the Recital of the Enforcement Directive connects compliance to access to information by stating:

Difficulties in accessing information on terms and conditions of employment are very often the reason why existing rules are not applied by service providers. Member States should therefore ensure that such information is made generally available, free of charge and that effective access to it is provided, not only to service providers from other Member States, but also to the posted workers concerned.

Article 5 (§§ a–d) of the Enforcement Directive stipulates the Member States' obligations in improving access to information. These points require EU Member States to provide information on the posting of workers *free of charge in a user-friendly format and accessible languages*. Article 5 further requires the establishment of national platforms on a single website for the posting of workers and *linking* information available through various channels to facilitate navigation. Article 5 also requires Member States to indicate *a contact person at the liaison office in charge* of dealing with requests for information (§§ e).

In 2020, Directive 2018/957/EU amending Directive 96/71/EC came into force, aiming to further strengthen the protection of posted workers by improving their working conditions and ensuring equal pay. The amended Directive 2018/957/EU mentions remuneration specifically (Article 3) and states that lack of access to up-to-date information should be considered when enforcement agencies inspect and aim to issue fines and penalties to posting and/or user undertakings. In other words, the new Directive reinforces the connection between access to information and posting rule compliance in reference to the repercussions companies face in instances of non-compliance:

[...] the determination of the penalty should take into account, in particular, whether the information on the single official national website on the terms and conditions of employment was provided in accordance with Article 5 of Directive 2014/67/EU (Paragraph 21 of the Recital).

Therefore, Member States have a direct interest in ensuring the quality and completeness of the information provided since, with the entering into force of the amended Directive 2018/957/EU, national authorities now hold an obligation to “take into account” the absence or incompleteness of the information provided by said websites when determining the proportionality of penalties in case of infringement of the posting rules.

EU institutions have also underlined the importance of access to information in the posting of workers. The European Court of Justice has shown a clear willingness to assess the proportionality of sanctions introduced by Member States against posting companies (Rocca, 2020). Likewise, the European Labour Authority (ELA) has established a Working Group on Information, whose role is to review and provide recommendations and guidelines to improve the single official national websites on posting.

The legal obligations have led to the setup of various channels of information provided by state and non-state actors. Assessments of these channels in the academic and grey literature have looked at the regulatory framework, the content, and the way the information is presented (Cillo, 2021; Čaněk et al., 2018; Cukut Krilić et al., 2020; Danaj & Zólyomi, 2018; Danaj et al., 2021; De Wispelaere et al., 2021; European Commission, 2019; Eurofound, 2020; Jorens & De Wispelaere 2019; Kováčová et al., 2021; Zólyomi & Danaj 2019). They find that although single official national posting websites have been established throughout the EU, considerable gaps exist in the legislation in many Member States on the criteria for the information these websites should contain. Another finding is that the format in which information is presented is too diverse in too many critical aspects to attain the legally defined objectives of the Directive. The information on national websites varies from mere extracts of national and EU legislation to more interactive or accessible content. Most information is provided in the Member States’ national language(s), and although most websites might also have an English version, others provide information in more languages. However, the criteria for the selection of languages are not transparent and often lack justification. As a result, these studies have concluded that the information provided on the posting of workers is insufficient and/or difficult to access by the stakeholders for whom it should be provided;

therefore, there remains considerable room for improvement regarding the channels of information provided and awareness.

The abovementioned assessments and research reveal that it remains unclear to what degree existing channels of information are used by posting and receiving companies and in what way(s), thus indicating a gap in the perspectives of posting and receiving companies. The few available studies suggest that posting companies often remain unaware of all the posting rules and that the available channels of information do not necessarily meet the needs they might have. A recent qualitative study by Danaj et al. (2021), focusing on employer practices in the construction sector, found that even though the amount of information available to posting companies is increasing, this does not necessarily translate to better access to this information. Companies have difficulties accessing the information on posting either because it is not sufficiently available, not available in a language they speak, or because of several difficulties in navigating and processing the available information in a practical and useful manner. These challenges are exacerbated in cases of the posting of third-country nationals, where posting and migration rules overlap (Cukut Krilić et al., 2020). In addition, De Wispelaere et al. (2021) found that employers in the live performance sector were also largely unaware of the (revised) posting rules and informed themselves on these rules mainly through the “client” or other colleagues. Overall, these results reveal that the target audiences underuse the official sources of information. The use of private legal and accounting firms and other consultancies by various posting companies also suggests the need for support in accessing and processing information on the side of the companies (Arnholtz & Andersen, 2018; Danaj et al., 2021).

Company profile, in particular size, placement in the subcontracting chain, and country of establishment also play a role in their practices (Afonso, 2012; Arnholtz, 2019). Larger companies at the top of the subcontracting chain are more inclined to comply with regulations than others further down the subcontracting chain (Arnholtz, 2019; James et al., 2015). Medium-sized companies in the middle of the chain feel double pressure. On the one hand, the pressure of compliance transferred by the main contractors and, on the other hand, the need for more flexibility to make a profit. Finally, in line with the arguments from this field, the smaller companies at the end of

the chain are described as the least likely to comply with the rules (Arnholtz, 2019; see also Wills, 2009). Likewise, the country of establishment also plays a role regarding which companies are more likely to comply with the rules. For instance, companies established in the host country and EU companies frequently active in the host country are more inclined to comply than other foreign companies (Arnholtz, 2019). Linking company size with financial capacities and rule enactment, Danaj et al. (2021) find that the larger companies can navigate the complexity of the posting regulatory framework with the support of specialised services companies, such as consultancies, lawyers, and accountants (see also Arnholtz & Andersen 2018), while the smaller companies often cannot afford such services. Therefore, companies with fewer resources must find, access, and process information on their own but may not always have the necessary human resources and skills to follow through.

Past research clearly indicates significant challenges in accessing and processing information on the posting of workers. However, based on these studies, it has been unclear what specific challenges posting companies experience. Taking stock of the existing literature, the case studies in this book provide the first comprehensive analysis of the channels of information in the posting of workers available to posting and receiving companies and assess the practices, needs, and challenges of these companies related to information on posting. They also provide examples of good practices and recommendations in the five studied country contexts.

The book is structured as follows. After the introduction, the mixed methodology applied in all five case countries is explained in detail. Next, each country case, focusing on Austria, Belgium, Italy, Slovakia, and Slovenia, is presented individually. Each country chapter first provides the channels of information and company practices, then the posting and receiving companies' challenges and needs, followed by information providers' challenges and efforts to improve access to information. The book's final chapter provides conclusions and recommendations drawn from the participants in the research activities in all five countries and the reflections of the researchers involved.

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THE CROSS-NATIONAL MIXED METHODOLOGY APPLIED IN THE BOOK: MAPPING AND EVALUATING INFORMATION CHANNELS ON POSTING

Elif Naz Kayran, Eszter Zólyomi, and Sonila Danaj

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Introduction

This chapter describes the mixed method approach applied in the INFO-POW research project. The project's data collection and analysis methods follow the research objectives and the specific research questions the project sought to answer. In this regard, the project aimed to present **a systematic analysis of the existing information channels** available to posting and user companies in five case countries (Austria, Belgium, Italy, Slovakia, and Slovenia) from an objective perspective via a mapping analysis and desk research. Next, the project also aimed to gather original data from the **subjective perspectives of the information-providing actors**, such as representatives of the public authorities, social partners, and private companies, through semi-structured qualitative interviews. Finally, to complete the picture of the information provision landscape in posting, the project also gathered data from the users and the target of such information, i.e., companies. To do so, the project launched and fielded an original pilot survey to collect data on **the experiences and perspectives of the posting and user companies** in the construction sector on their current experiences and challenges faced accessing information on posting and their preferences for the future of posting activity.

Across all three data collection strategies, the project placed participatory practices as a key dimension to substantiate the results, facilitate feedback loops with stakeholders, and ensure the upscaling and

sustainability of the project activities and results. To this end, an online stakeholder consultation workshop was organised in January 2023, where the findings from the mapping of information channels were shared with the stakeholders at the national level of the partner countries as well as at the EU level. Since the project focused on posting in the construction sector, the stakeholders selected were active, particularly in this sector, such as employer organisations and trade unions covering construction. In this consultation workshop, one session was also dedicated to discussing and collecting feedback from the stakeholders and the survey development experts on the first draft questionnaire of the INFO-POW survey. At the end of the project, an upscaling transnational event was organised with policymakers, enforcement agencies' representatives, social partners, and other stakeholders at the EU and national levels to disseminate the results of all three methodologies and the answers to the key project research questions, present some of the best practices uncovered, and discuss policy recommendations developed based on this new evidence.

It is important to note that while each of the three data collection strategies was undertaken at the national case level, resulting in country analyses of each case (which are available in this volume, chapters 3–7),² the project also aimed to provide comparative accounts of the information landscape and the perspectives of the information providers and users. Therefore, data collection and analysis of each method were determined at the project level and applied in the same manner in each country to ensure comparability of the findings when looking at the results from each case. Specific measures taken in each methodology are briefly described in the country-specific chapters of the present edited volume and the technical reports of the data collection in the project (Danaj, Kayran, and Prinz, 2023; De Smedt et al., 2023a).

The main research questions that we selected to address in the INFO-POW project are:

1. How do transnational posting undertakings and user undertakings find and use information on the posting of workers?

2 See also the INFO-POW country reports on Austria: Danaj, Kayran, Zólyomi, Prinz, & Geyer 2023; Belgium: De Smedt & De Wispelaere, 2023; Italy: Cillo & Perocco, 2023; Slovakia: Kureková, Moran, Kováčová, & Studená, 2023; and Slovenia: Vah Jevšnik & Toplak, 2023.

- a. What are the public and private channels of information on the posting of workers available to posting undertakings and user undertakings in each country?
 - b. What information is available? How accessible is it? And what is the quality of the information available?
 - c. What are the best practices identified?
2. How do posting undertakings and user undertakings assess the availability, accessibility, and quality of the available information on the posting of workers?
 3. How can access and quality of information on the posting of workers be improved to address the needs of posting undertakings and user undertakings?
 4. What are the differences across the five countries of Austria, Belgium, Italy, Slovakia, and Slovenia regarding information availability, accessibility, and quality on the posting of workers?

The project research team applied a multi-method approach to address the questions wherever relevant. For instance, the different dimensions of the characteristics of the information channels (i.e., availability, accessibility, quality) are evaluated from all different data sources collected by the project. Likewise, the differences in the case countries were analysed comprehensively, considering data gathered from different methodologies.

The rest of this chapter provides the key conceptual and methodological choices applied in the project to explain how the data used in the country case chapters were collected and analysed. We, thus, proceed by defining the conceptual terms that were used in the project, which were instrumental in the different methodologies: (1) design of the mapping indicators, (2) semi-structured interview questions, and (3) survey question items and analysis. After this, we present the details of the methodologies applied in the three main data collection methods since they were implemented specifically for the project goals. The chapter concludes with illustrations of how the mixed methodology was applied in the project and some reflections on the limitations.

Key Concepts and Terminology

In this section, we define the key terms relevant to the project's research design, namely, what constitutes “information” and “channels of information” in the context of posting activity. The empirical focus of the project lies in identifying and systematically assessing the information channels available to companies active in posting in the construction sector. To achieve this, it is essential to have uniform and concrete definitions of what constitutes a piece of information and, more importantly, an information channel to be evaluated. Taking stock of extant research in the field (Čaněk et al., 2018; Cukut Krilić et al., 2020; Danaj & Zólyomi, 2018; Danaj et al., 2021; De Wispelaere et al., 2021; Eurofound, 2020; Jorens & De Wispelaere, 2019; Kováčová et al., 2021; Zólyomi & Danaj, 2019), **information on the posting of workers** is defined as content on rules, rights, obligations, entitlements, procedures, sanctions, redress (complain and/or appeal), and institutions relating to the posting of workers presented in descriptive, instructive, and/or otherwise guiding format. This information might cover policy areas such as employment relations, labour mobility, migration, company law, temporary agency work, taxation, social security, occupational safety and health, collective bargaining, holiday pay, severance pay, monitoring and enforcement, subcontracting and liability, and health insurance. We have used this definition of what constitutes “**information**” in the context of the posting of workers **to determine the categories of content topics** we examined across the channels. Our definition of this term, thus, is reflected in our data collection, particularly in the mapping and survey methodologies.

Next, **channels of information** are defined as online and offline means of distributing content on rules, rights, obligations, entitlements, procedures, sanctions, redress, and institutions relating to the posting of workers. This definition of how we conceptualise channels of information guided the institutions and actors we consider as information providers, underpinning the method in interviews, and which channels need to be assessed from the companies' perspectives using such information underpinning the method in the survey. Notably, we use this definition of what constitutes a channel of information to determine our scoping and population form, in which we sampled information channels in the mapping exercise. This definition

guides our inclusion and exclusion criteria for the mapping, which are described in more detail in the relevant section below.

Based on a review of earlier work (see, for instance, Cremers, 2020; Danaj et al., 2021; Eurofound, 2020) and the specifications for access to information prescribed in the 2014/67 Enforcement Directive (Article 5), we have selected multiple dimensions to be used as main themes of our assessment of the information channels. In this respect, when designing the data collection method for our empirical studies' specific needs and target groups, we mainly focus on these aspects. First, we consider and identify the **information provider** of the channel, which we define as the type and characteristics of the entity providing the information that is responsible for the channel. Such providers can be state or non-state actors and different types of institutions and organisations. The second theme we used across the project is **availability**, which refers to the format and type in which the information is provided (e.g., online or offline), as well as whether the information can be accessed by everyone or a limited number of actors. Next, we define **target groups** as those to whom the information provided is targeted (e.g., only at undertakings posting to the country or those posting from the country).

Accessibility and quality are used jointly and defined as whether the information is provided in an easily accessible format that is clear and understandable to numerous audiences, which can be related to language, medium of presentation, or clarity of the information. As part of quality, we also consider the recency of the information and whether it is up to date. Lastly, we consider the **scope and content** conceptually important and define whether the information provided addresses the target audience's information needs and concerns related to the posting of workers, particularly from the perspective of user or posting undertakings. In this respect, in terms of scope, we refer to the content categories defined above and explicitly ask wherever relevant (such as in the survey) whether the information is useful for the companies.

Depending on the methodology, these five concepts (namely information provider, availability, target group, accessibility/quality, scope/content), as themes, have different implications. For instance, in the case of mapping, we use these themes as the main dimensions of indicator

development to assess the channels. In the interviews, we use some of the themes to organise and determine the questions that we asked to information providers. Finally, in the survey, the information provider and target group are used to organise the question design, and the other themes form the basis as to which the questions were designed for the assessments of the companies.

Description of the Mapping Methodology Applied in the Book

The main objective of the mapping exercise was to provide a systematic identification of existing channels of information and to map the different dimensions and characteristics of the currently available information, online and offline. As the first step of the research design of the mapping, we have defined rules of inclusion and exclusion of the channels that will be included in the sample from each country. Our approach to mapping considers both online and offline information channels provided by the state (the national and EU posting websites; institutional websites) and non-state actors (social partners, NGOs, consultancies) in each of the five countries. It covers all sectors of activity to avoid missing relevant channels of information. The list of channels was then narrowed down to construction to trace any sector-specific channels. We determined our scope by following our definitions of what constitutes information and an information channel. Table 1 below presents the included and excluded information sources and provides an overview of the population of information channels that we considered in our mapping.

As the next step, we decided on how to measure the five themes of assessment that we conceptually determined in the project (information provider, availability, target groups, accessibility and quality, and scope and content). We have created multiple indicators which capture each theme's different dimensions. Our empirical strategy was to target a balance between the exhaustiveness of the dimensions and the feasibility of the indicators,

which lend themselves to being coded in a within- and between-country comparative design of the channels.

Table 1: Types of included and excluded information channels.

| Included | | Excluded | |
|---|---|---|---|
| Online | Offline | Online | Offline |
| EU institutions' websites that have specific information for your own country's case study | Institutional offices with visiting hours | Academic publications | Out-of-print brochures, fliers, and manuals that cannot be found online |
| EU social partners' websites that have specific information for your own country's case study | National social partner offices with visiting hours | Overall project pages and project outputs that are not listed in the online and offline items | |
| National posting websites | Information focal points/offices accessible to the target audiences | | Newspaper articles |
| National institutions' websites: ministries, monitoring and enforcement agencies and sector-specific agencies | Manuals | Personal blogs | Events with a different thematic focus where posting is mentioned briefly |
| National social partner websites at the confederation and sectoral (construction) levels | Brochures/fliers | | |
| Regional and local institutions' websites | Offline informative events: workshops, seminars, info-days | | |
| Private services websites: accounting, legal, or broader scope consultancies | Offline trainings | | |
| Other designated posting pages | | | |
| NGO websites | | | |
| Online informative events: workshops, seminars, info-days | | | |
| Online brochures or manuals | | | |
| Online trainings | | | |
| Audio-visual content: videos, audio podcasts, posters, infographics | | | |

Table 2 below presents the overview of the five themes and the indicators we have selected to measure these themes. Further details of the indicator categories are available in the dataset's codebook (see Kayran et al., 2023). To not lose information when the coders encounter an observation outside of these pre-determined options, the mapping research design and the tool developed for data collection leave room for qualitative entry respective to each indicator for write-ins and notes from the coders.

Each country's project partner expert team has undertaken the national coding for their country's case for the mapping exercise. This allowed the coding to be done by researchers familiar with the posting context of the national case and those with language skills of the cases. The research project coordinators have designed the mapping tool research design, themes, coding rules, and indicators in close cooperation with the national experts who have conducted the data collection, allowing a good understanding of the coding rules and sampling strategy across the cases. To ensure the cross-national comparativeness of the coding, the research design team has reviewed the coding of the national mapping with two interim coding checks. The research design team has also checked the face validity of the coded indicators to ensure inter-coder reliability, and revisions of disagreement areas were discussed with the country experts, finding a solution that suited both the national context and comparability.

The research teams utilised the single national posting websites and their prior experience with postings of workers to identify pertinent actors who provide information to posting undertakings/user undertakings while coding the information channels. Each team scanned the web for relevant sources in their national language and English, using the search term "posting of workers to/from COUNTRY." The web research was supplemented with additional terms such as "information", "notification", "minimum wages", "working times", "safety", "social insurance", "user undertakings", "work permits", and "sanctions" in relation to postings.

Table 2: Key themes and indicators used for the information mapping exercise.

| Theme: | Information provider | Availability | Target groups* | Accessibility & Quality | Scope & Content** |
|--------|---|---|--|--|---|
| | Name of the information provider | Online vs. Offline | Posting companies to AND/OR from the country | Language availability (other than the national languages of the country) | Working times and work hours |
| | Type of actor (State vs. non-state) | If online, type of institution responsible for the channel | User undertakings inside AND/OR outside of the country | Availability in English | Occupational health and safety |
| | Type of actor (the type of institution providing the information) | If online, type of online channel | Workers posted to AND/OR from the country | Information equivalency between different versions | Minimum wages and collective agreements |
| | Funding type of the actor providing the information | If offline, type of institution responsible for the channel | Sector-specific information or targeting broadly posting | Recency of the information/time-liness | Registration for social insurance and contributions |
| | Governance level of the institution providing the information | If offline, type of channel | | Accessibility of the information presentation | Work permits |
| | | If offline, the distribution method of the channel | | Connection to external resources and relevant links | Overtime and other additional wage supplements |
| | | Cost of access to the information (both offline and online) | | National contact point/person availability | Leave and holidays |
| | | | | Links to external foreign national posting websites | Facilitating information targeted at companies |
| | | | | Social media accounts | Sanctions and enforcement in case of non-compliance |
| | | | | | Redress, appeal, and compensation |

Note: *The coding for the target group items is not mutually exclusive and allows the coders to select more than one type of target audience. **Each of these content items is coded both regarding whether they inform “posting to” or “posting from” country. Researchers also have the option to include additional content items that are not covered by the indicators here.

As a result, the INFO-POW overall sample of mapped channels includes a total of 182 channels distributed across five countries. Looking at this by country, the mapping dataset comprises 36 channels in Austria, 21 channels in Belgium, 38 channels in Italy, 36 channels in Slovenia, and 41 channels in Slovakia. A significant share of the sampled channels are online sources, exceeding 90% of the sample, while offline sources constitute a modest proportion. We note that this is not necessarily a representative picture of the extant information available offline since the research on mapping consisted of conducting desk research. Therefore, while we contend that our coverage of the online information channels is relatively comprehensive, we concede that the offline information channels we have been able to sample are not exhaustive of the potential sources in the field. The culmination of the mapping dataset is made publicly available with supporting data material and documentation for further use or upscaling (Danaj, Kayran & Prinz 2023; Kayran et al., 2023).

Description of the Methodology of the Semi-Structured Interviews Applied in the Book

The main objective of the interviews was to collect insights and recommendations on improving access and use of available information for posting construction companies and user undertakings from the perspective of the information providers. Thus, the preparation of the interview questions has also been built on the results of the mapping exercise that we conducted in the period December 2022–March 2023. In addition to collecting new data on aspects that cannot be captured by the other methods used in the project, such as stakeholders’ reflections on the quality of the available information on posting in terms of accuracy, accessibility, and use/application of information, the interviews (wherever

relevant) were also used to get feedback on whether any crucial information channels were missed in the mapping exercise.

We determined categories for “information providers”, which were used to select the interviewees for the data collection. In this regard, we have purposefully selected national-level stakeholders from the following groups: (1) representatives of public authorities and enforcement agencies (e.g., labour inspectorates), (2) social partners, (3) policymakers, (4) private actors/consultants (lawyers, accountants), and (5) national representatives from the European Labour Authority (ELA). Thus, in each case country, we aimed for a minimum of five interviews. Wherever feasible, the project also targeted a good balance of different actors of information provision, aiming to ensure a representative from each of these five groups, which was largely achieved in almost all case countries (see Table 3 below).

Table 3: Overview of the semi-structured interviews conducted with information providers.

| Country | Interview field period | Total number of interviews | Represented organisations |
|----------|------------------------|--|--|
| Austria | March–April 2023 | 10 interviews | Federal Ministry of Labour and Economy (x2), Ministry of Finance, Construction Workers’ Annual Leave and Severance Pay Fund (BUAK), Austrian Health Insurance Fund, Federation of Social Insurances, Austrian Federal Chamber of Commerce (WKO), Chamber of Commerce Tyrol, Chamber of Commerce Carinthia, Private law company |
| Belgium | March–May 2023 | 5 interviews | 2 Belgian trade unions (ABVV and ACV, National Social Security Office (RSZ – ONSS), Employers’ organisation in the construction sector (Bouwunie), Payroll consultancy |
| Italy | January–May 2023 | 5 interviews (8 respondents in total)* | Italian Association of Construction Companies (ANCE), Confindustria Vicenza, National Bilateral Construction Industry Board (CNCE), Friuli Venezia Giulia Region, Financial and labour consultancy |
| Slovakia | March–April 2023 | 6 interviews (8 respondents in total)* | 2 National institutions (the National Labour Inspectorate and Social Insurance Agency), European Labour Authority, Law firm, Trade union, Employers’ association |
| Slovenia | March–April 2023 | 6 interviews | Health Insurance Institute of Slovenia, Chamber of Craft and Small Business of Slovenia, Chamber of Commerce and Industry of Slovenia, regional branch (Maribor), European Employment Services (EURES), Posting undertaking, Accounting consultancy |

Note: *In some interviews, more than one interviewee representative of the organisation was present.

The same questionnaire is used in the five countries to ensure that the collected information is cross-nationally comparable (see “Annex 1: Interview Protocol”). The questionnaire follows a semi-structured format using open-ended questions developed by the INFO-POW coordinating team lead and was distributed to all project partners. The questionnaire was designed for a 45-to-60-minute-long interview, accompanied by an interview protocol. The protocol serves as a guide for the semi-structured interviews and contains details about gaining informed consent before the interview, a script to open and close interviews, and prompts for the open-ended questions.

All interview participants were explicitly asked for their permission to participate in the interviews (written consent form adhering to GDPR guidelines) and whether to use the provided information directly or in an anonymous format, ensuring that their responses are not recognisable in the text. In the analyses, respondents’ quotes and contributions are discussed without revealing the identities of the interviewees. As with the mapping exercise, the expert project partners in each of the five countries conducted the participant recruitment and fieldwork for their own national case studies. The qualitative data from interviews were transcribed and then analysed using qualitative thematic analysis based on Guest, MacQueen, and Namey (2012). The themes used to analyse the interview data were also partly drawn from the findings of the desk research and mapping exercise.

Description of the Pilot Survey Methodology³

The main objective of the data collection and analysis through the survey was to obtain the perspectives, experiences, and challenges faced by the companies when accessing information on posting. This last research methodology component complements our latter two data collection strategies. To the best of our knowledge, it brings in the user perspective, which breaks ground as a new form of empirical perspective in the field.

³ For further details on the survey methodology see “INFO-POW Survey Manual” (De Smedt & De Wispelaere, 2023).

Following this research goal, the population for which the study is targeted is posting and receiving companies in the construction sector in the five case countries (Austria, Belgium, Italy, Slovakia, and Slovenia). The survey could be completed in all the relevant national languages (English, Dutch, French, German, Italian, Slovak, and Slovenian).

The questionnaire was designed for a 15-minute online survey with mostly close-ended questions. Some open-ended questions were included to collect additional comments and suggestions. The questionnaire consisted of the following three modules:

- Module 1: questions about the availability, accessibility, and quality of information when sending a worker to another Member State temporarily or receiving a worker from another Member State in the context of posting,
- Module 2: questions about the posting activity in the company (such as the number of workers posted or received by the company and the latest year of posting activity) and
- Module 3: questions about the company's profile (such as the country in which the company is registered as a legal entity, the size of the company, and the sector of activity).

Particularly, questions in Module 1 included various aspects on the channels through which the companies have searched for information, the most common channels used, their satisfaction thereof, questions on barriers as well as future-oriented suggestions and preferences when getting information on posting. Since posting and receiving companies have different obligations in terms of posting of workers⁴ and different information needs, certain survey questions either differed between the two groups or were only asked of one group.

Before fielding the survey, we pre-tested our questionnaire both for content and technical aspects. In terms of content coverage and questions, a stakeholder consultation took place in January 2023, where feedback was provided on the survey, as discussed in the introduction. Additionally,

⁴ Mainly posting companies have obligations regarding the terms and conditions of employment to be respected and administrative requirements. Receiving companies have fewer obligations.

each country's expert team has conducted content, technical, and language checks on the questionnaire. The survey was fielded from 30 March to 17 August 2023. In line with the GDPR (General Data Protection Regulation), the survey responses were confidential and no sensitive or identity data were requested. The survey participants were informed about their rights in the invitation to participate and at the beginning of the survey.

Our population consists of companies that represent a target group that is difficult to reach and achieve a high level of responses. Furthermore, the difficulty in getting responses was expected to vary greatly between the different country cases. Therefore, to maximise the number of responses, we used multiple dissemination channels to diversify the reach of our strategy in collaboration with the stakeholders.

The research teams approached potential respondents through either publicly available sources or public authorities and employer associations. In specific cases, private actors like consultants and recruitment platforms were asked to distribute the survey to their clients. A more detailed account of the national strategies and stakeholders involved in disseminating the survey is presented in the Survey Manual (De Smedt et al., 2023a). In addition to the individual dissemination strategies, we have also used the Orbis database, a database from Bureau van Dijk that contains (non-) financial information from private companies worldwide, currently close to 400 million companies and entities.

Overall, the sample collected from our online survey included 121 companies. Among these 121 companies, 82 are posting, and 39 are receiving companies. Looking at the samples in each country, we have 26 responses from Austria, 39 responses from Belgium, 9 responses from Italy, 18 responses from Slovakia, and 29 responses from Slovenia.

Concluding Remarks

In terms of the limitations of our methods, it is important to highlight some of the aspects regarding the survey component of our research design. Although many steps were taken to ensure the survey's quality,

our sample is not representative of posting and receiving companies active in the construction sector in the five countries. Moreover, since the total population of posting and receiving companies cannot be determined in each of the Member States, the descriptive results discussed in the analyses cannot be adjusted with weighting. Considering that our survey is a pilot survey, as it is the first in the field in this particular population, the collected data sample is a convenience sample. Therefore, our descriptive results presented below should be taken with caution and are not generalisable. Likewise, we refrain from inferential statistics considering the sample size. Finally, small companies and self-employed companies in posting are more difficult to reach and are less likely to complete the survey. Furthermore, in online surveys, unlike in-person or telephone surveying, respondents could rush through the survey without carefully reading each question and response option, which we considered when cleaning our survey response data before the analysis stage by looking at the survey responses. For further information on the limitations of the survey methodology, technical information about the survey, and a comparative overview of the sample, please see the survey manual (De Smedt et al., 2023a) and the comparative report on the survey (De Smedt et al., 2023b).

Nevertheless, the mixed methodology applied in the project has provided original information on different aspects of using information in the posting activity. Altogether, the methodologies used cover perspectives from the users (i.e., companies) and the information providers and examine both existing channels and future needs. The following chapters in this volume, presenting the case studies from each country, benefit from this integrated approach to data collection with multiple methodologies.

Finally, both in the company survey and the mapping exercise, the project aimed to break new ground in a research area that has not been previously systematically studied. Therefore, while these data collection efforts are considered exploratory at this stage, the technical reports and our analyses presented here demonstrate ways in which the knowledge base in the field of posting and, in other fields and policy issues, would benefit greatly from more systematic evaluations of information provision. Empirically, the method we developed charts a fruitful research avenue for further expansion of the geographical scope of the mapping dataset and

the company survey design from the five project cases to the wider EU-27 Member States. For both methods, covering the EU widely would be useful not only to researchers for a more comprehensive study of the extant state of the information (objectively and subjectively) in different policy areas, including posting activity, but it would also benefit national stakeholders in other Member States in assessing their own channels of information.

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ACCESS TO INFORMATION ON THE POSTING OF WORKERS: COMPANY PRACTICES AND CHALLENGES IN THE CASE OF AUSTRIA

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Introduction

Since the past decade, the posting of workers has had an increasingly important economic function in Austria. Despite a steady growth of outgoing postings from the country, Austria remains a predominately receiving country of posted workers (Danaj & Geyer, 2022). Incoming postings accounted for an estimated 2% of total employment in Austria and 1.7% of the full-time equivalent of the Austrian labour force in 2019 (Geyer et al., 2022). Posting is particularly significant for the construction sector, where in 2019, it accounted for an estimated 44.5% of all postings to Austria and 5.2% of all people working in the Austrian construction sector. Despite an initial decline in postings from and to Austria in the first year of the COVID-19 pandemic, the overall number of notified postings to Austria and the number of posting notifications in the Austrian construction sector were higher in 2021 than in 2019, indicating that the pandemic only led to a temporary disruption of the long-term trend regarding postings to Austria (Ibid).

Previous qualitative research on posting to and from Austria has indicated that access to information and the correct processing of information on the posting of workers is a challenge for posting and receiving companies (Danaj & Scoppetta, 2022; Kahlert & Danaj, 2021), despite the existing regulatory framework composed of various laws that cover different aspects of providing information related to employment in

Austria. Although the country has not transposed the EU Directive 2019/1152 on transparent and predictable working conditions, the existing Austrian employment laws already satisfy many of the Directive's stipulations. For example, in the Labour Constitution Act, there are provisions for providing accessible information on collective agreements and arbitration, minimum wages, protection against dismissal, and the rights and responsibilities of works councils. The Labour Contract Law Amendment Act requires that employers provide employees with a written record of their main rights and obligations. Additionally, strict obligations to employers regarding the provision of information to their employees on various aspects of their employment, including safety and health, working hours, rest periods, and social security, among others, are provided by the Employee Protection Act, the Working Hours Act and Work Rest Act, the Maternity Protection, the Child and Youth Employment Act, the General Social Security Act, and the Construction Workers' Coordination. In the specific case of the posting of workers, though, compliance with the Posting of Workers Directives 96/71/EC and 2018/957/EU and the Enforcement Directive 2014/67/EU is primarily achieved through the implementation of the Anti-Wage and Social Dumping Act (Lohn- und Sozialdumping-Bekämpfungsgesetz – LSD-BG), which includes specific clauses on access to information on posting. Despite these regulations, the complexity of the information to be processed in terms of administrative requirements and wage-setting according to receiving country pay rates, including the application of wages according to collective bargaining categories, are identified as the most difficult for posting companies in Austria (see Danaj et al., 2021).

Taking stock of previous research and drawing on new empirical data, in this chapter, we describe the information channels available in the country and the practices of posting and receiving companies with access to information in the Austrian construction sector, as well as companies' challenges and needs regarding access to information on posting. We then analyse the information providers' challenges and efforts to improve access to information. The chapter is based on empirical data collected during the period November 2021–October 2023 through mixed methodologies that comprise a mapping exercise of 36 online and offline channels of information provided by public and private entities in Austria, semi-structured expert

interviews with 10 representatives of Austrian public authorities, social partners, and private service providers that are responsible for the provision of information on posting, and the survey results of 26 responding construction companies – 18 posting and 8 receiving – based in Austria. The analysis of these data throughout the chapter reveals that while state, social partners, and private actors provide a substantial amount of information, challenges regarding access to information and its provision persist, and more can be done to improve and facilitate access to information on posting in Austria.

Access to Information: Channels and Practices

A wide range of actors provide information on posting in Austria. The desk research on the mapping of channels of information on posting in Austria (see Methodology Chapter) yielded 36 relevant channels, 15 provided by state actors and 21 provided by non-state actors. Information providers include the relevant ministries, social security and social insurance institutions, employment institutions, the Labour Inspectorate, and the Construction Workers' Holiday and Severance Pay Fund (BUAK), social partners (employer associations and trade unions), the Chamber of Labour, and private firms and consultancies. Relevant ministries (19.4%) seem to be the leading actors when it comes to state actors, whereas private consultancy firms (27.8%) are on top when it comes to non-state actors. Information is provided predominantly at the national federal level (88.9%). In contrast, regional actors providing information are mainly the contact point offices of the Austrian Chamber of Commerce (WKO) in the different Austrian states. A common key characteristic of the information channels provided by public institutions is that the content is always available open access without any fees, adhering to Article 5 of the Enforcement Directive (80.6% of all mapped channels). Other channels provide free access only to companies or member companies of their associations. Meanwhile, the information provided by private actors, namely consultancy companies or law firms, is

made available generally to showcase the private actors' areas of expertise, and interested customers can purchase further details and services.

Regarding the target audience, about 94% of all mapped channels have information relevant to posting companies, of which about 14% include "posting from Austria", about 53% include "posting to Austria", and 27.8 % have information on both. About 58% of the channels provide information for receiving companies. Public institutions and employers' associations seem to provide information concerning Austrian posting and receiving companies covering posting activity to and from Austria. Of the 36 channels mapped, 68.5% provide information about posting in general, 22.9% provide information both on posting in general and specific to the construction sector, and about 9% are information channels that target the construction sector only. This construction-specific information is provided through online channels, including the single national website and the websites of BUAK, the employers' organisations, and some private consultancies.

From the perspective of companies regarding their experiences when navigating the posting information landscape, our survey findings show that out of all the available information sources, companies use employers' organisations (46.2%) and public authorities (30.8%) as their main sources. About half of the respondents rely either frequently or sometimes on consulting companies and other companies in the country, including client companies in the case of posting company respondents. However, most of the surveyed companies in Austria never use sources such as trade union organisations, EU institutions, and NGOs. Moreover, companies typically rely on a combination of different sources for information on posting, as most respondents report having used more than two information sources. This behaviour is understandable since many public institutions cover mostly aspects of their own institutional mandate, and consequently, information is fragmented along institutional lines.

The mapped information channels in Austria are overwhelmingly provided online (31 out of 36). The online channel with the most comprehensive information is the single national Austrian posting website (entsendeplattform.at) managed by the Ministry of Labour and Economy and BUAK. Most other online channels (about 61.1% of all mapped channels) are websites, whereas the rest are online manuals, guidelines, leaflets,

brochures, and other such material available online (about 15%). Most online sources were updated at least within the last two years (20 out of 23 for which information could be found), but their main means of providing information is text. One significant difference is that of the Austrian single national posting website, which provides not only the texts of the collective agreements but presents a concise overview, where details about minimum wage pay rates, specialised skills pay rates, and other allowances according to the specific collective agreement are provided and can be used as a wage calculation tool.⁵ Channels of information managed by state actors also provide hyperlinks to other public institutions or social partners' websites; however, none provides any hyperlinks to EU or other Member States' single national posting websites.

The research shows that there are significantly fewer offline channels of information on posting. Only five offline information channels have been mapped; however, one important offline channel of information is the relevant actors' national contact points and offices, which companies can visit in person during office hours. Despite the existence of office hours provided by various public authorities, the interviews with the providers show that since the onset of the pandemic, companies have rarely used them as channels of information. In addition, BUAK has a telephone service through which companies can get information on almost all aspects, particularly related to social insurance. Some actors like private consultancies, social partners, and social insurance institutions also organise offline, i.e., in-person workshops and trainings targeting companies or public authorities, where information on various posting-related topics is presented and explained to the targeted audiences.

Among the information channels available, our findings from the survey with posting and receiving companies show that companies most use the websites of employer organisations, public authorities, and single-posting national websites. Around 40% report they have always or often used the websites of employer organisations and single national websites on posting. In addition, more than half of the companies use information guides, manuals, or leaflets. They also rely on their business partners for

5 For example, see the wage calculation based on the agreement for [Construction Industry and Building Trades](#).

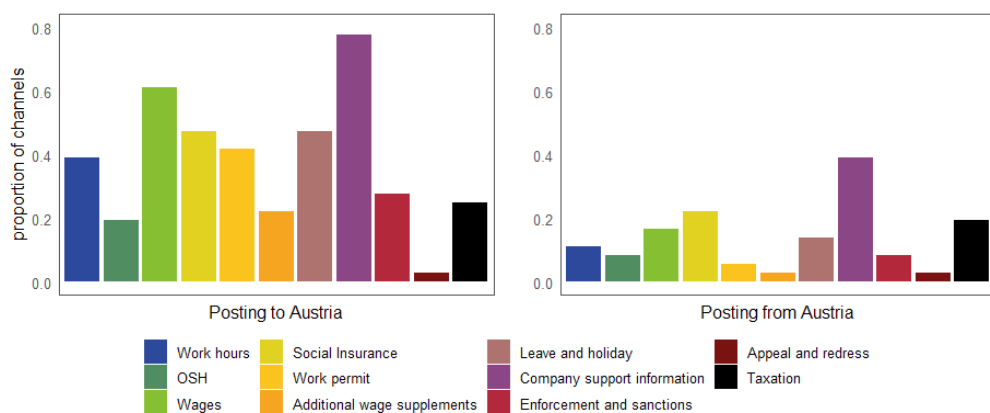
information, suggesting that these channels remain important avenues for obtaining posting-related information for companies. Companies rarely visit websites and social media platforms of trade unions and NGOs for information on posting. Although respondents less often indicate information channels such as newspapers, specialised magazines, etc., information trainings/workshops, and consultancy company websites, this may not necessarily reflect companies' preferences but rather the availability and accessibility of these channels. For instance, information provided on consultancy websites is often available only for paying clients. Most respondents (68.4%) view the consulted single national websites on posting as either "very useful" or "useful". Only half state the same regarding information accessed through other public authorities' websites, which are among the most often consulted channels by the companies. Interestingly, although relatively few companies report having attended information trainings or workshops or accessing information from trade union websites, many of those who do so appear to have found them rather useful.

Language accessibility appears limited since around 64% of all the mapped channels provide information only in the national language (i.e., in German), and around 25% have one additional language of translated content, mostly English. The Austrian single posting website is the only channel that provides a wider range of language availability, which, besides German, offers its information in English, Hungarian, Polish, Czech, Slovakian, and Slovenian. Importantly, the single website's translated versions are equivalent to the German version, which means that translated versions of the website contain about the same information as the original national language version. The translation qualities are roughly equal to the German versions in the other channels providing information in languages other than German. Service providers also report that German and English are the main languages used to communicate information on posting to companies. The BUAK interviewee says that they have assigned multilingual staff to take inquiries in different languages, mostly from workers, but not only. The Financial Police have made the prior notification declaration form available in 13 languages.

Looking at the content covered in the 36 mapped channels (Figure 1, right panel), the most widely available topic is *facilitation information*

for companies in Austria if they want to post workers to other countries (such as information about entrepreneurship, laws on setting up business, facilitating information on the construction sector in Austria and elsewhere, etc.). Next, the topics of *taxation*, *social insurance registration*, and *wages* are also covered to a relatively larger extent across the mapped channels. Other topics concerning *sanctions*, *enforcement*, *redress*, and *work permits* are covered only in very few of the information channels. We should also note that even though some content topics are indeed covered on posting workers from Austria to other countries, the proportion of such coverage is quite low, except for facilitating business information. Concerning posting from Austria, all other topics are covered on only about 20% of the information channels. We take this as an indication that information providers consider Austria mainly to be a receiving country for posted workers.

Figure 1: Content on posting to/from Austria (source: Danaj et al., 2023).



Turning to the coverage of topics for companies posting to Austria (see Figure 1, left panel), like posting from Austria, most information channels cover the topic of *facilitating* companies to set up their service provision of sending workers to Austria. Next, around 50% of the information channels cover the topics of workers' *wages*, *social insurance*, *leave and holiday*. About 40% of the channels also cover workers' *work hours* and *work permit*. Content related to *appeal* to any sanctions for companies, *occupational safety and health* regulations, and *additional wage supplements* (other than the main salaries) are the least covered topics for posting to Austria. Here, we also

note that Austria's single national posting website covers almost all topics relevant to posting to Austria.

Interviews with information providers indicate that administrative procedures and wages are the main topics of inquiry from posting and receiving companies. The survey with the posting and receiving companies also shows that companies are looking mostly for information related to administrative aspects, particularly the issuing of the PD A1 (19 out of 26 respondents), followed by information related to applicable wages (16 respondents) and additional allowances (15 respondents). Fewer respondents search for information concerning reimbursements for travel and accommodation, prior notifications, occupational health and safety, and working conditions. Respondents least frequently mention information about the payment of social security contributions, income tax, and postings exceeding 12 months. The survey results show that social security payments for posted workers tend to be outsourced to external companies or consultants. In contrast, the companies themselves mostly take care of requests for PD A1s, prior notifications, and accommodation for posted workers. Since certain services are outsourced, we infer that companies are less likely to seek this information independently. However, concerning the calculation of wages, allowances, and reimbursements for posted workers, an equal share of companies stated that these are outsourced and done in-house, and only when we compare them by company size do we notice that smaller-sized companies are more likely to outsource these latter components. Nonetheless, information on wages and allowances is still one of the main themes about which companies look up information. This indicates that these are crucial aspects for the posting companies we surveyed, regardless of whether or not they outsource the calculation service.

Posting and Receiving Companies' Challenges and Needs

Both the information providers we interviewed and the company respondents who completed the survey identify the challenges and barriers

that companies face in the posting of workers. Close to half of the surveyed companies in Austria perceive access to information as a challenge to participating in posting. The share of those who regard information access as a challenge is higher among the posting than the receiving companies. The smallest companies (i.e., those with less than ten employees) are the most likely to perceive access to information as a barrier to their posting activities. It might be that larger companies have already overcome some of the difficulties related to information access and do not perceive them as an obstacle anymore. Companies that post workers or receive posted workers more frequently are likewise less likely to report information access as a barrier. Companies perceive the most relevant factors for creating barriers to access to information on posting as “time and effort required” (87.7%, i.e., very and fairly relevant) followed by “understanding of the information provided” (57.7%) and language barriers (53.8%). They perceive the “cost of retrieving information” and “digital skills” as two factors that are less of an obstacle; 46.2% of respondents regard them as very or fairly relevant. Factors such as language, digital skills, and cost of getting information appear to be of greater relevance among smaller companies, i.e., with less than 50 employees compared to companies with more employees.

All interviewed information providers also notice a degree of uncertainty among posting companies about the rules and their correct application. In their understanding, the intersection of posting with other regimes such as minimum wage and collective bargaining wage scales, immigration, social security, taxation, and bureaucratic requirements produce complex individual cases that require comprehensive knowledge to reach compliance (cf. Danaj et al., 2021). The different definitions of what constitutes posting according to the labour, social security, and tax regulations are confusing for companies and their HR departments. Moreover, each institution dealing with posting and posting companies looks at the matter from the perspective of their own competence, i.e., when their mandate is to monitor labour law or the anti-wage and social dumping law, they use this legal framework. When their mandate is social security, they use social security coordination regulation, and when it is a tax authority, they use their own legal framework. As these frameworks do not coincide

completely, companies might comply with one but not necessarily the other and, therefore, must ensure they do.

Additionally, the revision of the Directive and the reform of the Austrian Act against Wage and Social Dumping, as well as the complications derived from the global pandemic, have also increased the level of uncertainty about the applicable rules in posting activity (Danaj & Kahlert, 2021). Getting accurate information on rules that companies must comply with entails additional costs, for instance, by investing in human resources and trainings of their staff, which explains why some companies outsource this part to specialised firms. Burdensome administrative requirements appeared to be a recurring topic in the open-ended questions of the survey, as the quotes below illustrate (translated from German):

Presently, it is almost impossible to receive posted workers without an enormous amount of bureaucracy and, therefore, time. Smaller companies are insecure and sceptical. The uncertainty as to whether all papers are available makes some shy away. You are dependent on workers from abroad, but you are constantly stuck in the process and the bureaucracy. Applications take too long to be processed.

Currently, I spend more than 60% of my working time dealing with authorities, application forms, and information on how to get workers as quickly as possible.

Another challenge the interviewed service providers identify is the interpretation of the collective bargaining pay categories and scales and their application for posted workers. Previous research has already evidenced this challenge (Danaj et al., 2021). Since the introduction of the Anti-Wage and Social Dumping Law in Austria and later the revised Directive, posting workers should be paid to receive country wages. Austrian Collective Bargaining Agreements (CBAs) are reportedly complex and, according to the respondent from the ministerial department, they are available only in German and English, with short summaries in the posting platform in five other languages. However, language is not the only problem. It is also difficult to understand which trades can use which CBA, their pay categories and scales based on seniority, training, and other qualifications. Based on

our interviews with stakeholders, the only authority that provides concrete guidance on interpreting the CBAs is the ministerial department behind the official single national website.

The interviewed information providers notice a related issue concerning both the interpretation of legislation and the collective bargaining terms when companies want to inquire without implicating themselves in any wrongdoing. This means that if a company is asking a question, they are concerned about saying something that could be used as evidence of an infringement when communicating with public authorities. The interviewees say that since each case can differ, public information providers must know the details to provide the appropriate information and guidance. However, the posting companies can be reluctant to provide many details, which, according to one of the interviewees, might be considered incriminating. In the case of the department receiving inquiries from the single website, the public officers providing the answers to companies make it clear that they have only an informative role and, therefore, inform the inquiring companies that they limit themselves to warning them when an action could lead to infringement and advise them on how to prevent or repair the issue.

The interviews identify a final challenge: the language barrier for smaller companies. While bigger companies have personnel or consultants who speak German and/or English, it is more difficult for smaller companies to access the relevant information when directly inquiring with the public authorities. The survey respondents also identify the language barrier, with half indicating this as a factor influencing their posting experiences. A few of them also mention language barriers, insufficient information, and limited access to the information available due to often poor or non-existent translation, in the survey's open-ended questions regarding challenges they face.

Regarding their information needs, the survey results confirm that wages and additional allowances for posted workers are among the topics on which companies most often seek information. These areas are also the ones that most survey respondents feel they need more information about to correctly post or receive workers, followed by social security payments and working conditions. Information regarding occupational health and

safety and postings longer than 12 months are those that respondents least mention concerning additional information needs. Among posting companies, wages, additional allowances, and working conditions are the top three areas of extra information needs, while receiving companies most often cite social security-related information.

The survey also asked respondents to indicate which aspects of information provision they consider the most important when seeking posting-related content, thus shedding further light on companies' information needs. Having the most up-to-date information is of the highest importance for the companies as almost all respondents consider this to be very important. The second and third most paramount aspects are easily understandable and sufficiently detailed information. Half of the respondents deem accessing posting information from a single source (or place) to be very important. While fewer respondents indicate having an office or person to contact for all posting-related inquiries and information available in different languages, most companies (73.1%) still regard them as very or fairly important.

As for the preferred channels for receiving information on posting, most respondents select social partners' websites as the preferred information channels. Websites of national or EU-level institutions are the next most preferred information channels for companies. Getting information via printed materials, such as guides or leaflets, is indicated by fewer respondents; they nevertheless seemed to be a more favoured option than audio-visual formats (e.g., videos, podcasts, etc.), in-person contacts (e.g., hotlines, chats, contact person) or information sessions, trainings, and workshops. Obtaining information vis-à-vis these latter channels can require more time and effort on the part of companies, which may explain their preference for sources and modes of information that are easier to access. The survey findings also show that employer organisations and public authorities' websites are the key channels through which companies expect to receive future posting-related information, further underlining their importance in ensuring access to high-quality information. Moreover, despite online channels like websites being the dominant choice for accessing and retrieving information on posting, offline channels, such as printed information guides, still appear useful for many surveyed companies.

Information Providers' Challenges and Efforts to Improve Access to Information

The interviews with 10 representatives of Austrian public authorities, social partners, and private service providers responsible for providing information on posting reveal a few of the challenges for both public and private information providers. One of the main challenges for information providers derives from the requirements of the Enforcement Directive of the Posting of Workers Directive on making information “generally available free of charge in a clear, transparent, comprehensive and easily accessible way” (Article 5). Information providers report a challenge regarding finding the balance between presenting information in an accessible manner and providing sufficient or appropriate information to account for the specificities of individual cases. The challenge to provide accurate and detailed information in an accessible way relates to the legal framework and the collective bargaining agreements. There are around 500 CBAs for all sectors in Austria, according to one of our respondents from the Federal Ministry of Labour and Economy, and the concepts they contain can be difficult to present in laypersons’ terms. In addition to simplifying the terminology, providers must also consider the definition of posting under different regulatory frameworks. Monitoring and enforcement institutions and social partners must be aware of the differences in legislation and be able to provide accurate information to posting and receiving not only on their own competent legal framework but also the other overlapping legislations to ensure compliance.

The clarity challenge is compounded by the fact that in addition to providing information on rules and regulations in simpler formulations, rules and obligations should also be translated into English and other languages. Translating legal and CBA terminology requires accounting for Austria’s legal and institutional context to make the rules and regulations understandable and usable by EU companies posting to Austria. Apart from clarity, providers also report the challenge of having the most updated information always available, especially in terms of salary changes and other collective bargaining terms, which in countries like Austria include a

high number of collective bargaining agreements and pay rates such as the inflation adjustment raise, which is negotiated annually.

A final challenge relates to exchanging information among institutions from different EU countries. The mapping exercise reveals that the single national websites of other Member States are not hyperlinked in any of the channels available in Austria. The issue of insufficient exchange is also raised about cross-border institutional information exchange. According to one of the respondents from the ministry, although there are many activities at the EU level, more can and should be done to provide institutional counterparts with information on the regulatory framework of each Member State to ensure posting rule enforcement. Our respondents suggest that to provide more and better information to posting companies, public institutions across the EU should also have better channels of exchange among each other.

In the face of the challenges outlined, our research reveals that making the information accessible, comprehensible, and digestible is something that public authorities constantly work on and try to improve. This is particularly the case for the officials involved in updating the single national posting website. The Austrian national website on posting already provides information in several languages (currently seven, including German). It is also the channel with the widest range of themes covered on posting. The platform is updated regularly, allowing firms to stay apprised of the latest regulatory changes. In addition, the contact function allows individual companies to ask specific questions that are processed by a team of legal experts employed by the Federal Ministry of Labour and Economy. A relatively recent addition is the overview of the collective bargaining agreements, which can be used as a wage-calculating tool, as this chapter's section on practices explains. However, there is still room for improvement since the single national website has more comprehensive information on labour law issues and limited information on other aspects, such as social security and taxation. Some interviewees recommend a more holistic approach to information provision in the posting of workers that covers all aspects of their working lives. but the single national posting website seems like the most appropriate channel to do so (cf. De Wispelaere & De Smedt, 2013).

Another institutional platform in the process of being implemented is the Electronic Exchange of Social Security Information (EESSI), which in Austria has recently been complemented with the legal basis that allows other institutions such as BUAK and the Financial Police to verify the validity of a PD A1 through their own login. The application for PDs A1 is also digitalised, which, according to the respondent from the Federation of Social Security Institutions, provides all the necessary steps for the companies to submit their applications for PDs A1 and leaves little room for further questions or clarifications. While the digitalisation of the procedures is deemed positive, there is still a need to provide in-person information and support to companies and their posted workers on properly using the platform.

The Chamber of Commerce respondents we interviewed regard their foreign trade centres as valuable resources. With a vast network spanning over 100 centres worldwide, the foreign trade centres offer significant advantages, primarily due to their physical presence in the destination countries. According to the feedback from respondents of the Chamber of Commerce, the centres of foreign trade play a vital role in providing specific and tailored information regarding the posting of workers. In addition to their support services, centres of foreign trade publish comprehensive and up-to-date country profiles that serve as comprehensive resources for posting companies.

Another good practice comes from the private sector. According to the consultant interviewed, the software used by the Austrian legal firm has received praise from the clients, and they have pushed for it to be used Europe-wide. This tool facilitates the compliance process for firms as it helps translate complex regulatory frameworks into simple actions posting companies can easily take and check whether they are abiding by the rules. The system is also constantly updated, allowing new rules or changes to be implemented on time and to avoid non-compliance. During the interview, we were told that the firm, in collaboration with a pan-European network of 15 legal firms, was about to adopt the software to communicate with their clients and provide them with the necessary information and instructions for posting rule compliance. Public authorities could also use a similar tool to facilitate companies' assessment of rule compliance in collaboration with them.

Conclusions

The Austrian case study shows that based on the mapped 36 channels provided by public institutions and private non- and for-profit entities, construction companies operating in the country have access to a wide range of sources and channels of information on the posting of workers. Most of these channels are free to access except for those of the social partners that provide some information to members only and the private consultancies which provide most information to their paying customers. The main topics of interest from the perspective of the 26 surveyed companies are related to procedures and wages, both in terms of what the companies currently look for and what they need more information on. Despite the wide range of channel options, a significant share of the survey respondents consider access to information a challenge to posting to and from Austria. Companies and information providers list several challenges to accessing information, most of which speak of the complexity of posting information and language barriers. This is particularly the case for smaller companies with fewer resources.

The most comprehensive channel is the Austrian single national website on posting, which provides equivalent information in seven different languages. This platform and, in general, public authorities' websites, along with those of the employers' association, are the main channels used by posting and receiving companies and are also considered very useful. While offline channels are fewer and less used than online channels, especially since the COVID-19 pandemic, in-person information options are still quite valued by those who use them. However, even the more comprehensive channels do not cover all aspects relevant to posting, and most public institutions provide partial information, mostly pertinent to their own competencies. This explains why most companies indicate using two or more different channels to draw information on posting. Outsourcing to specialised consultants is also a practice some companies use to access relevant information and provide them with some of the necessary services related to posting.

To respond to the challenges of access to information in the posting of workers, information providers utilise different online channels, but

they also make available in-person (or offline) channels for more direct exchanges. The existing good practices could be further developed and/or supported to increase access to information, the ultimate goal of which is to increase the level of compliance with labour and social standards. The main recommendation that we can draw from all three sources of empirical material is, therefore, the need to provide a more holistic overview of all relevant issues related to posting and streamlining information in concentrated channels.

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ACCESS TO INFORMATION ON THE POSTING OF WORKERS: COMPANY PRACTICES AND CHALLENGES IN THE CASE OF BELGIUM

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Introduction

Some key principles are defined at the EU level regarding the employment and social security rules applicable to workers when they are temporarily sent (i.e., “posted”) to another Member State. For instance, from day one, the posted worker is entitled to all the elements of remuneration of the receiving Member State (also covering other advantages such as bonuses and allowances) rendered mandatory by law or by a collective agreement made universally applicable. Moreover, s/he remains subject to the social security system of the sending Member State for a period of 24 months. These posting rules accompany several administrative obligations, such as applying for a Portable Document A1 (PD A1) in the sending Member State and making a prior declaration in the receiving Member State. Information provided through different information providers and information channels should ensure that posting companies, posted workers, and receiving companies (i.e., clients) have sufficient knowledge about the posting rules put in place. In the provision of information regarding the posting of workers, there are several public and private information providers involved (e.g., public authorities, labour inspectorates, employers’ organisations, trade unions, NGOs, consultants, business partners, etc.) who communicate with posting companies, posted workers, and receiving companies through various online and offline information channels (e.g., website, event, training, manual, guidelines, video, contact person, local office, etc.).

In that regard, the main aim of this chapter is to identify and assess the challenges and needs of posting and receiving companies active in the construction sector in accessing and using relevant information regarding the posting of workers from and to Belgium.⁶ The specific focus on posting in the construction sector certainly makes sense from a Belgian perspective. First, this form of intra-EU labour mobility by providing services has become an important source of employment in the Belgian construction sector.⁷ Consequently, many posting and receiving companies may have information needs and thus seek useful information channels. Second, it appears that the Belgian labour inspectorates frequently detect infringements to the posting rules in the Belgian construction sector. This is another reason why the provision of information is of great importance. The Belgian construction sector does not only receive posted workers, but Belgian construction companies also send workers to other Member States to provide temporary services. However, this number is relatively limited, especially compared to the incoming perspective. In that regard, the Belgian construction sector is mainly a net-receiver of posted workers.⁸

First, we give an overview of the information providers and channels Belgian construction companies (may) consult when sending and/or receiving posted workers. We then analyse the needs and challenges of these companies regarding access to information on the posting of workers. Subsequently, we list the challenges for information providers in Belgium and how, according to them, access to information can be further improved. Finally, some conclusions and recommendations are made.

6 Mainly based on the results reported in the INFO-POW country report for Belgium (De Smedt & De Wispelaere, 2023).

7 Figures for 2022 show that about 87,000 posted workers were temporarily active in the Belgian construction sector (at the Belgian level, data on the number of incoming postings to Belgium are collected via the Limosa declaration (<http://www.limosa.be/>)). As a result, roughly one out of three workers posted to Belgium is active in the construction sector. This group of workers represents roughly one-fifth of the workforce in the Belgian construction sector.

8 In 2021, about 15,700 PDs A1 out of the 66,000 PDs A1 issued by the competent Belgian authority were granted to workers active in the construction sector. These workers were mainly active in Belgium's neighbouring countries: France (7,888 PDs A1), the Netherlands (6,831 PDs A1), Luxembourg (4,806 PDs A1), and Germany (2,029 PDs A1).

The chapter builds on three types of data sources. First, relevant information channels in Belgium were identified through desk research.⁹ Second, five semi-structured online interviews were conducted with Belgian information providers. Two interviews were held with representatives of the Belgian trade unions ABVV (General Labour Federation of Belgium) and ACV (Confederation of Christian Trade Unions of Belgium), one with the National Social Security Office (RSZ – ONSS), one with an employers’ organisation in the construction sector (Bouwunie), and finally, one with a payroll consultant. Third, an online survey was conducted, supported by the employers’ organisations Bouwunie and Embuild, targeting Belgian construction companies that post workers abroad or receive posted workers from abroad.¹⁰ An invitation to complete the survey was sent to 6,282 companies by Bouwunie, 5,049 companies by Embuild, and 675 companies by the researchers themselves. However, only 39 construction companies – 15 posting and 24 receiving – completed the survey. Due to this low response rate but also because the data cannot be weighted (there is no view on the total group of posting and receiving companies in the Belgian construction sector and their profile), the reported results are merely indicative and thus not representative for all construction companies in Belgium sending and/or receiving posted workers.

9 This data collection took place from December 2022 until March 2023, meaning that more recent information channels cannot be included in this exercise. This mapping exercise cannot be considered an exhaustive list of all the main information providers involved (both public and private actors) and the main information channels used. Indeed, it is likely that still (quite a few) other private actors, mainly social partners (our focus is the construction sector), NGOs, and consultants provide such information. Moreover, while it is relatively easy to find online information channels, it is much more difficult to list offline information channels.

10 The survey was launched on 30 March 2023, and the responses were downloaded from the online survey tool on 17 August 2023.

Access to Information: Channels and Practices

Main channels of information on the posting of workers from and to Belgium

In total, 31 relevant information channels were identified by desk research. By far, most information channels relate to postings to Belgium (25 out of 31 listed information channels), and only a limited number of channels provide information on outgoing postings (6 out of 31 listed information channels). The main information providers regarding posting to Belgium are the national public authorities and the social partners. These two main information providers clearly differ, not only in terms of the content and the scope of the information provided but also in terms of the information channels used to disseminate this information. The information provided by the national public authorities, among others via the single official Belgian national website on posting,¹¹ mostly covers a wide range of topics related to posting, mainly distributed by using websites and often directed to foreign posting companies. This while the information provided by the Belgian employers' organisations and trade unions active in the construction sector is mainly targeted to the sectoral provisions, often distributed by using leaflets, brochures, and events, and aimed at the economic actors active in the construction sector (employers' organisations target the receiving companies¹² and trade unions target the posted workers). Finally, in the case of posting from Belgium, the EU institutions and the public authorities in the receiving Member State are the main facilitators of information. However, Belgian posting companies may also obtain information through the Belgian employers' organisations and, to a lesser extent, through the national public authorities in Belgium.

11 <https://employment.belgium.be/en/themes/international/posting>

12 Information is mostly only freely available to companies which are members of these employers' organisations.

Practices of Belgian construction companies when looking for information on the posting of workers

First, knowing what information construction companies are specifically looking for is useful. The responses of the Belgian posting companies to the online survey indicate that they are looking for information on several aspects, but primarily related to the administrative obligations (i.e., information regarding making a notification in the prior declaration tool of the receiving Member State (80% of the respondents) and the request for a PD A1 (73% of the respondents)). We asked Belgian receiving companies to report on the information that foreign posting companies typically ask them. They state they primarily receive questions regarding the application for a PD A1 (67% of the respondents) and how to make a notification in the prior declaration tool (54% of the respondents).

Remarkably, information is sought mainly regarding the administrative obligations and, to a lesser extent, regarding the wages to be paid or the working conditions to be respected. One possible explanation is that several obligations regarding the terms and conditions of employment applicable to posted workers are outsourced. After all, when outsourcing such obligations, there is much less need for the company concerned to search for information. Results from the online survey show that the responding posting companies outsource the more difficult tasks, such as calculating the gross wage, the additional allowances, and the social security contributions paid to/for the posted worker. Relatively easy administrative tasks such as applying for a PD A1 or making a notification in the prior declaration tools (87% of the respondents), in turn, are mostly taken care of by the posting companies themselves. Furthermore, the extent to which tasks are outsourced varies greatly between small and large posting companies.¹³ More than half of the Belgian responding posting companies outsource one or more tasks. This percentage is much higher for small Belgian posting companies (63%)

13 Companies were categorised as “small” or “large” companies based on the question on how many employees are active in the company. Those with 0 (self-employed) to 49 employees are categorised as “small” and those with 50 employees or more are categorised as “large”. The European Commission defines the following categories of companies: micro (< 10 employees), small (< 50 employees), medium-sized (< 250 employees), and large (250 employees or more) (European Commission, 2023). Therefore, in this report, “small companies” means both micro and small companies, and “large companies” refers to both medium-sized and large companies.

than large ones (43%). On average, small posting companies outsource 2.1 elements, while large posting companies outsource 1.3 elements. After all, large (posting) companies may, much more than small (posting) companies, have the capacity and knowledge to cover these tasks themselves. Nonetheless, these results contradict both common expectations and the literature.¹⁴

Regarding the information providers used, results of the online survey show that Belgian posting and receiving companies active in the construction sector consult various information sources to obtain information on the posting of workers. National public authorities, employers' organisations and consulting/legal firms are most frequently consulted by the Belgian posting and receiving companies. Furthermore, there is a strong link between the frequency that certain information sources are consulted and the frequency that the information channels provided by these information sources are consulted. For the total group of responding Belgian posting and receiving companies, the top three consulted information channels are employer organisations/associations' websites, the single official national website on posting, and other public authorities' websites.

When it comes to the provision of information, a lot of attention is paid by the European legislator to the development of the single official national website. However, a large group of Belgian posting and receiving companies were not aware of these websites prior to responding to the online survey. Of the 39 responding Belgian posting and receiving companies, 18 companies, or 46%, were unaware of the single official national website either of the country/ies the company posted workers to (posting companies) or of Belgium (receiving companies). Specifically, 53% of the responding Belgian posting companies did not know of the single official national website of the Member State where they provide services. In addition, about four in ten of the responding Belgian receiving companies were not aware of the Belgian single official national website on posting of workers.

14 See, for instance, Vah Jevšnik & Toplak, 2023: "To be able to apply all posting rules, posting companies often need to outsource specialised services, which only large companies with sufficient financial resources can afford."

Posting and User Companies' Challenges, Barriers, and Needs

Challenges and barriers of posting and receiving companies when looking for information on the posting of workers

The online survey aimed to identify the barriers that Belgian posting and receiving companies face regarding access to information on posting. The majority of the responding Belgian companies – posting (53%) and receiving (63%) – indicate that access to information is a challenge when participating in posting. Nevertheless, it should be kept in mind that these companies have overcome this challenge as they have recently provided services abroad or received services from abroad. There is no view on the group of Belgian posting and receiving companies for which this challenge is too great, causing them not to participate in posting. A follow-up question asked about which factors create challenges for companies to access information on posting. More than 70% of the 39 responding companies indicate “understanding of the information provided” as the main reason why it is a challenge to access information on posting.

The interviews with information providers also highlight foreign companies' challenges and barriers when providing services in Belgium. The interviewees identify language barriers as one of the main challenges. As one of the interviewees mentions, “Most of the foreign service providers don't speak a foreign language, so even if the single official website is available in English, it's still a barrier for them.” This language barrier also affects the information that the companies will look up. As one of the information providers puts it, “First of all, people will enter a search term in their own language. And perhaps secondarily in English if insufficient information is available.” Moreover, this language barrier also potentially affects the information that will be found and its quality.

Another challenge reported is the complexity of the rules (incl. administrative obligations). One interviewee states: “Small businesses get lost in all administrative obligations. Large companies with an HR department find the information or find someone who can provide them with the information. Small companies are ‘illiterate’ in this regard.” ... “80%

are ‘simple’ entrepreneurs who do not know how to comply with laws even in their own country.” Moreover, distinguishing which information is correct and which is not also remains a challenge: “(Small) companies sometimes think they are following the rules, while this may not be the case.”

Moreover, according to our interviews, the information sought by posting companies might also not be specific enough. For instance, “They [the companies] search on Google: ‘minimum wage Belgium’, but then they find the general minimum wage, not knowing that there are Collective Labour Agreements (CLA) by sector. [...] Then they are surprised if the labour inspector says the wages are too low.” However, even if one finds the right CLA, mistakes are still made: “They see ‘category I’ and then they pay that amount.” Challenges exist mainly regarding the specific obligations that apply when posting workers to the Belgian construction sector. For instance, posting companies should pay the Welfare Fund for the Construction Workers a global contribution of 9.12% of the wages. One of the interviewees mentions that posting companies do not know this requirement: “For foreign companies, this is very unclear, even a mystery, what they have to do.”

Additional needs of posting and receiving companies when looking for information

Companies’ information needs mainly reflect the challenges and barriers listed above. They seek information available in their language and information channels that make the complex rules easier for them to understand. Moreover, despite the diversity of information providers and channels consulted by posting companies and receiving companies, it appears that there is still a need for additional information on various aspects related to the posting of workers. The channels through which posting and receiving companies want to receive information about posting in the future are largely the same for both groups: primarily through institutional and social partners’ websites, followed by in-person contact or events. Media, social media platforms, and audio-visual channels are not the preferred information channels. These answers show that the information channels through which posting companies and receiving companies want to be informed in the future are, to a large extent, those they already use today. Information channels such as information sessions/trainings/workshops,

which are relatively less frequently used by the Belgian posting and receiving companies, are among the ones that are viewed as the most useful by the respondents. In that regard, it is a welcome development for employers' organisations to take initiatives regarding offline training, although the Belgian public authorities could still play a more active role. However, the National Social Security Office (NSSO) recently organised a "basic training on international employment" for all those interested.¹⁵

Information Providers' Challenges and Recommendations to Improve Access to Information

Challenges of Belgian information providers in ensuring provision and access to posting information

The cost of providing information, for instance, keeping a website up to date, is considered one of the main challenges for information providers.¹⁶ For instance, national public authorities need a political willingness (and thus financial support) to provide exhaustive and correct information. This also raises the question of how far national public authorities' responsibility extends in providing information.¹⁷ Furthermore, foreign posting companies or posted workers are not members of the local employers' organisations or trade unions, which makes it difficult to justify the high costs made for them.

15 A series of trainings was organised to explain the Belgian and international legislation regarding cross-border employment. See <https://www.rsz.be/nieuws/2023/09/19/international-days-rsz-deskundigen-leggen-grensoverschrijdende-sociale-zekerheid-uit>

16 Or further developing the single official national website based on the recommendations published in a report from ELA on the lessons learnt for single national websites on the posting of workers (ELA, 2023b).

17 Article 5(1) of Directive 2014/67/EU stipulates that "Member States shall take the appropriate measures to ensure that the information on the terms and conditions of employment which are to be applied and complied with by service providers is made generally available free of charge in a clear, transparent, comprehensive and easily accessible way at a distance and by electronic means." However, there are no parameters that precisely define the level of "clarity", "transparency", and "completeness" required.

Belgian employer organisations face the challenge that foreign companies often come to them for information, but these companies are not members of the local employer organisation. Although they have previously held off providing information to these companies, recently, they have become more open to them. Social secretariats also do not seem to target foreign companies despite many posting companies providing services in Belgium. One of the reasons why employer organisations and social secretariats do not (or hardly) provide information/services to foreign companies might be that their Belgian members are very sceptical about this: “They see them as competitors who do not respect the rules.”

Furthermore, union representatives mention in the interviews that contacting posted workers is challenging. Posted workers do not go to trade unions as quickly as “Belgian” workers, for instance, because of a lack of trust.¹⁸ Moreover, as posting is temporary, it is difficult to provide them with information in the long term. Posted workers are often not interested in structural consultation or becoming a trade union member.

Another challenge for information providers is to present the information in a manageable, clear, and simple manner. For instance, an interviewee mentions that one reason posted workers or companies do not consult information themselves on European websites or the single official Belgian website is because the information provided is too complex and detailed.

Finally, language barriers remain a challenge for information providers. Although language is a crucial element in information provision, it is almost impossible to have all written, let alone spoken, information available in the necessary languages.

Recommendations of Belgian information providers to improve access to information on the posting of workers

An important information channel is the single official Belgian national website for posting. Interviewees agree that this website is useful and contains valuable information. Nevertheless, they raise the question of for whom this information channel is developed. According to the interviewed

¹⁸ See, for instance, also Danaj and Sippola (2015).

trade union representatives, it is doubtful that posted workers are looking for information on a single official national website. Furthermore, one states, “A website can only go so far.” Any form of written explanation is good for standard cases, but there is a great need for individual, tailor-made advice. Another interviewee observes, “There may be a big difference between what is on the website and how people interpret this information.” Therefore, all interviewees highlight personal contact and information/training sessions as important information channels concerning the posting of workers.

Furthermore, information providers (should) try to remove the existing language barriers not only by making websites and information brochures available in the main languages (for instance, Polish) but also by having an interpreter present at information sessions who speaks the language(s). The importance of language in transferring information cannot be underestimated. As already noted, companies tend to look for information in their own language. In that respect, it would be good to debate whether support should be provided by the sending Member State and what their information duty could be in this regard. One interviewee mentions, “Public administrations in the sending Member States could put more effort into raising the awareness of posting companies about the applicable posting rules and the administrative obligations.” For instance, another suggests: “When applying for a Portable Document A1, one should receive the message: ‘You have applied for a PD A1 to work in another Member State. Please be aware that different wages and working conditions apply in this Member State, so please inform yourself about this.’”

Finally, interviewees report that incoming posted workers and Belgian (construction) workers are poorly informed about the applicable wage and working conditions. Trade unions are willing to take up the role of information provider “on the ground”. Taking on such a role can also be a two-way street: trade unions should provide information not only to the posted workers but also to the national administrations to keep them updated on trends and evolutions in the field (e.g., (new) information needs/gaps). Even though trade unions are certainly open to this idea and are already trying to fulfil this role, it remains a challenge.

Conclusions and Recommendations

Recital 18 of Directive 2014/67/EU rightly states, “Difficulties in accessing information on terms and conditions of employment are very often the reason why existing rules are not applied by service providers.” However, the lack of knowledge about the fact that other terms and conditions of employment should be respected when sending workers to another Member State might be a prior reason for non-compliance. After all, if one is not aware of this, a service provider will not look for information about it either. In that regard, it is important that as many posting and receiving companies as possible know there are specific employment and social security rules when workers are posted to another Member State. Initiatives that increase knowledge about the EU rules on posting among the economic actors involved (i.e., posting companies, posted workers, posted self-employed persons, receiving companies) can only be welcomed.¹⁹

According to the mapping exercise for postings to Belgium, Belgian public authorities and social partners are the main information providers. In contrast, in the case of posting from Belgium, the EU institutions and the public authorities in the receiving Member State are the main information providers. This finding is confirmed by the survey, which revealed that the channels of information most used by posting and receiving companies are public authorities and employers’ organisations. The interviews and the survey results indicate that information/training sessions and in-person contact are paramount. Therefore, we can argue that in-person information sessions for posting companies, receiving companies, and posted workers should be organised (more frequently).²⁰ Given the important task of the European Labour Authority (ELA) in providing access to information, it can play an important supporting role in realising this recommendation.²¹

19 For instance, in October 2023, the European Labour Authority (ELA) launched an information and awareness raising campaign to workers and employers active in the construction sector about their rights and obligations in particular related to the posting of workers (<https://www.ela.europa.eu/en/news-event/newsroom/elas-eu4fairconstruction-campaign-launched-today-inspections-action-week>).

20 Recently, such session was organised by the NSSO.

21 A conference was held on 25 January 2024 as part of the Belgian presidency of the Council of the EU to promote the work of ELA and contribute to the evaluation of its functioning.

Furthermore, the information provided by Belgian information providers and the channels used seemingly complement each other. However, a fragmentation of information on posting occurs at the level of the Belgian public authorities. Therefore, pooling the information presented by one information provider would be better.

One of the most important information channels is the single official Belgian national website on posting. Even though the Belgian website is in many aspects a good practice compared to other single official national websites in the EU, some shortcomings still could be addressed. On the single official Belgian national website on posting, information is particularly missing on accommodation, travel expenses, housing expenses, and sectoral obligations. Moreover, the information on posting by temporary employment agencies is not detailed enough. Furthermore, given the complexity of the posting rules, it would be good if the information on this website were more user-friendly (the information is mainly provided through text, and little to no visuals are used).²² Finally, information on this website is available in Dutch, French, and English but not (yet) in German (one of the official languages in Belgium) or in Polish (one of the main sending Member States).

As a result of the strong focus on the single official national website in EU legislation, the responsibility regarding informing posting companies about the applicable terms and conditions of employment is largely put on the receiving Member State. However, to reduce the likelihood that existing rules on posting are not only applied by service providers because of difficulties in accessing information but also of a lack of awareness of the applicable rules, other information providers, such as the sending Member State and the receiving company could be more involved in providing information (De Wispelaere & De Smedt, 2023; ELA, 2023a). In addition, several actors are active “on the ground” who can certainly play an important role in providing information. We are thinking first and foremost of labour inspectorates, which have both a sanctioning and a proactive informatising role. Moreover, trade unions should try to reach posted workers even more

As part of this conference, a report was prepared by the Belgian presidency assessing the fulfilment of ELA's mandate, including the one related to access to information (Belgian presidency of the Council of the EU, 2024).

22 In that regard, the recent publication from ELA on lessons learnt for single national websites on the posting of workers might be useful (ELA, 2023b).

with information. Finally, there is the reality that consultants are increasingly providing services to posting companies. This, of course, is at a certain cost. However, there is a “market failure” regarding access to information for posted workers, which makes national public authorities and trade unions crucial information providers for this group.

Finally, we can make some general recommendations regarding the provision of information and its monitoring. First, the provision of information must be comprehensive in all its dimensions. This recommendation means that the information is addressed to all economic actors involved (i.e., posting companies, posted workers, posted self-employed persons, receiving companies) but also that the information provided is exhaustive in both breadth (i.e., all relevant aspects of posting, including aspects of labour law, social security law, tax law, and migration law) and depth (i.e., including specific sectoral provisions). This approach will require a multiplicity of information providers and information channels that are complementary to each other. Second, monitoring the impact of the provision of information is also needed. For instance, a baseline measurement can verify whether the economic actors are aware that EU rules on posting have been defined and to what level this knowledge reaches. After launching information and awareness-raising campaigns or other initiatives, such measurement can be done again to gain insight into the impact of the implemented policy on the provision of information.

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ACCESS TO INFORMATION ON THE POSTING OF WORKERS: COMPANY PRACTICES AND CHALLENGES IN THE CASE OF ITALY

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Introduction

One of the main challenges that has arisen since the introduction of the Posting of Workers Directive 96/71/EC concerning the posting of workers in the framework of the provision of services has been providing easily accessible and sufficiently clear information on the minimum standards for posted workers and the administrative requirements that must be applied and respected by service providers and user undertakings. The directive required each Member State to take the appropriate measures to make the information on the terms and conditions of employment generally available (Art. 4, Par. 3). Additionally, this challenge has been mentioned by the Enforcement Directive (2014/67/EU), which aims to improve access to information on the terms and conditions of employment applicable to postings through channels that can be used free of charge and in a clear, transparent, comprehensive, and easily accessible way at a distance and by electronic means, such as through a single official national website. Additionally, Directive 2018/957/EU amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services requires that each Member State ensure that the information provided on the single official national website is accurate and is updated regularly, as it affects any measures applied to undertakings for non-compliance with the terms and conditions of employment.

In the case of Italy, Directives 2014/67/EU and 2018/957/EU were transposed in 2016 with Legislative Decree 136/2016²³ and in 2020 with Legislative Decree 122/2020²⁴, respectively. Furthermore, in 2022 Italy implemented Directive 2019/1152 on Transparent and Predictable Working Conditions with Legislative Decree 104/2022²⁵, which requires that if a posted worker is sent “to another Member State or to a third country for a period exceeding four consecutive weeks”, the employer must communicate “any modification to the elements of the employment contract” in writing and before departure and must provide specific information regarding the destination country (or countries); the conditions of repatriation if envisaged; the remuneration based on the legislation of the receiving Member State; any additional benefits and any specific indemnities for posting; the method of reimbursement for travel, food and accommodation expenses; and the address of the single official national website of the receiving Member State.

However, although Italy has introduced the legal obligations and institutional mechanisms required by the EU legislative framework, recent studies have highlighted that there are still many difficulties regarding accessing information on the terms and conditions of employment and administrative requirements for service providers and user undertakings;

23 Legislative Decree 136/2016. Implementation of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (“the IMI Regulation”). [D. Lgs. 17 luglio 2016, n. 136. Attuazione della direttiva 2014/67/UE del Parlamento europeo e del Consiglio, del 15 maggio 2014, concernente l'applicazione della direttiva 96/71/CE relativa al distacco dei lavoratori nell'ambito di una prestazione di servizi e recante modifica del regolamento (UE) n. 1024/2012 relativo alla cooperazione amministrativa attraverso il sistema di informazione del mercato interno («regolamento IMI»)].

24 Legislative Decree 122/2020. Implementation of Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. [D. Lgs. 15 settembre 2020, n. 122. Attuazione della direttiva (UE) 2018/957 del Parlamento europeo e del Consiglio del 28 giugno 2018, recante modifica della direttiva 96/71/CE relativa al distacco dei lavoratori nell'ambito di una prestazione di servizi].

25 Legislative Decree 104/2022. Implementation of Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. [D. Lgs. 27 giugno 2022, n. 104. Attuazione della direttiva (UE) 2019/1152 del Parlamento europeo e del Consiglio del 20 giugno 2019, relativa a condizioni di lavoro trasparenti e prevedibili nell'Unione europea].

the quality of the information provided; the capacity of posting undertakings and user undertakings for finding and using the information to abide by the applicable regulations for companies and the posted workers (Cillo & Perocco, 2021; Cukut Krilić et al., 2020; Danaj & Zólyomi, 2018; Danaj et al., 2021; European Commission, 2019; Eurofound, 2020; Jorens & De Wispelaere 2019; Zólyomi & Danaj, 2019). Concerning the obligations imposed by the EU and national regulatory framework, this chapter aims to identify and assess the challenges and needs of construction companies in accessing and using relevant information regarding posting workers from and to Italy to understand how transnational posting and receiving companies find and use information in their interaction with national institutions, and to explore what are the main challenges faced by information providers and what efforts they make to improve access to information.

The analysis of these issues is focused on the construction sector, one of the main sectors of the Italian economy, which in 2021 included 520,212 companies, equal to 11.4% of the total companies registered at a national level, and 1,355,427 employed persons, equivalent to 8.2% of the employed workforce (Italian National Institute of Statistics database, 2023). Focusing on the construction sector allows us to analyse one of the key sectors for incoming and outgoing postings at an EU and national level. With increasing importance as both a sending and receiving country, Italy has a double role. Regarding incoming postings, Italy registered 90,860 portable documents A1 (PDs A1) in 2020, and in the years leading up to that date, there was a fluctuating trend of growth that reached its peak in 2019 (with 173,727 PDs A1) (De Wispelaere et al., 2021). Regarding outgoing postings, the Italian State issued 215,628 PDs A1 in 2020, almost quadruple that in 2012, when it issued 52,237 PDs A1 (De Wispelaere et al., 2021). Even if there is no statistical data on the employment sectors of outgoing postings, recent research shows that the construction industry is one of the principal employment sectors in receiving countries due to the internationalisation processes adopted by Italian construction companies in response to the effects of the global economic crisis of 2008 (Cillo, 2021; Cillo & Perocco, 2021).

This chapter refers to the empirical data collected between December 2022 and August 2023 as part of the INFO-POW project. Mixed methodologies were used in the collection process, including the mapping of 38 online and

offline information channels provided by public and private entities; semi-structured expert interviews with eight representatives from the public authorities, social partners, and private service providers that furnish information on posting; and the survey results of nine responding posting and user undertakings based in Italy.

Following the introduction, the chapter first discusses the key characteristics of the information channels available in Italy. Then, it identifies how sending and receiving companies use information channels and the main challenges, barriers, and needs related to accessing information on posting. Finally, it focuses on the challenges information providers face and their efforts to improve access to information.

Access to Information: Channels and Practices

The sample of the mapping exercise in the INFO-POW project mainly analyses publicly available online sources due to the difficulties in accessing and finding offline sources of information that may be disseminated in the field and in accessing material behind a paywall in information channels that are not provided publicly. The analysis shows that available information channels are fairly heterogeneous regarding the information providers, the availability of posting information, the target audience, and the accessibility, quality, scope, and content of posting information. The sample analysed by the mapping exercise shows that a significant share of information providers are non-state actors (79%, 30 out of 38 channels), as opposed to institutional and state actors (21%, 8 out of 38). The information on posting provided by non-state actors principally comes from consultancies and employers' organisations. In contrast, among public institutions, it is provided by labour inspectorates and the Ministry of Labour and Social Policies, which also manages Italy's single national posting website (<https://distaccoue.lavoro.gov.it/it-it/>). In relation to their funding, most of the channels included in the sample are funded through non-public and not-for-profit sources (45%, 17 out of 38), while public funding is used for nine information channels (24%) and private funding for ten (26%).

The public institutions providing information on posting are all funded through public resources and include the Ministry of Labour and Social Policies (Ministero del Lavoro e delle Politiche Sociali), the National Taxation Agency, the National Labour Inspectorate (Ispettorato Nazionale del Lavoro), and the Friuli Venezia Giulia Region. Information channels provided by employers' associations and trade unions constitute about a third of the sample and are classified as not-for-profit organisations receiving anything other than public funding. These information providers include organisations that operate at a national level (such as the National Association of Construction Companies and unions in the construction sector, including FENEAL UIL, FILCA CISL, and FILLEA CGIL), provincial or regional organisations affiliated with national organisations (such as the employers' association Assolombarda or the headquarters of Confindustria in the Province of Vicenza), and organisations that operate at an EU level (such as the European Federation of Building and Woodworkers).

In our sample, nine information channels are funded privately. They are managed by consultancies that provide general information on EU and Italian legislation on posting on their websites. They also sell personalised consultancy services to posting undertakings, such as assistance with administrative obligations, drafting contracts for posted workers, and consultancy on mandatory working conditions and taxation. Regarding the other types of actors that provide information, a significant part of the sample comprises six bilateral construction industry boards²⁶ operating at national, regional, and provincial levels, including the various social partners in the construction sector. The mapping exercise revealed information from an online labour law newspaper, a research project by a

26 The Bilateral Construction Industry Boards manage the paritarian social funds in the construction industry and are composed of representatives of trade unions and employers' organisations. Construction companies must register with the paritarian social funds in the province where they have their headquarters. Through the paritarian social fund, workers receive payment for holidays, Christmas bonuses, and supplements for illness, accident, and occupational diseases, and the benefits decided in the national and provincial agreements. In the case of incoming postings, the sending company must register its employees with the paritarian social funds in the province where it provides its services (especially in the absence of mutual recognition and exemption agreements, which have only been signed with Austria, Germany, France, and San Marino).

consortium of universities, including the University of Parma, and a labour law website run by an NGO created by labour lawyers.

Most of the information channels in the sample are available online (79%, 30 out of 38 channels) and include online manuals or guidelines (39% of the whole sample), websites (32%), and videos and online training (5%). The offline channels (21%, 8 out of 38) consist of printed guidelines and training and face-to-face counselling services for posted workers and sending or receiving companies offered by trade unions, employers' associations, and the National Bilateral Construction Industry Board. The channels included in the mapping exercise provide information mainly focused on posting to Italy or useful for both posting to and from Italy (e.g., general information on the posting of workers regulatory framework) and address multiple audiences at the same time, such as sending companies (84%, 32 out of 38 channels), user undertakings (58%, 22 out of 38), and posted workers (53%, 20 out of 38).

Regarding the accessibility and quality of information, the mapping exercise considered factors such as the languages in which the information was available, the use of different tools or media to facilitate access to and understanding of the information, and the recency of the information provided. In terms of language accessibility, in most cases, the channels were only available in the national language (30 out of 38). The remaining eight information channels provide at least an English translation of the information. In six cases, most of the information provided in the foreign language(s) was equivalent to the Italian version. The mapping exercise also showed that using different tools or media of presentation to facilitate access to and understanding of the information is not widespread. Indeed, more than half of the channels in the sample exclusively use text (55%, 21 out of 38). In comparison, only eight channels present the information using additional tools or media (21%), such as infographics, charts, and photos or videos.²⁷ As for the recency of information provided by the different actors, the analysis of the dataset shows a varied picture. However, at least 24 out of 38 channels (63%) have updated or distributed the information that they provided in the last two years and reported information regarding the most

²⁷ The remaining channels provided mainly offline or paid-for online information, and it was not possible to check the tools and media used for presentation.

recent changes introduced in Italian legislation, such as the approval of Legislative Decree No 122/2020, which implemented Directive 2018/957/EU in 2020.

The analysis of the scope of the information shows that a significant number of channels offer information related to posting in general (66%, 25 out of 38). A small number focus on posting in the construction sector (32%, 12 out of 38) or on both posting in general and for the specificities of the construction sector (3%, 1 out of 38). Regarding content, the mapping exercise revealed differences between channels providing information on posting to Italy (incoming postings) and those providing information on posting from Italy (outgoing postings). The channels providing information on incoming postings generally cover topics related to registration for social insurance and contributions and to mandatory working conditions, such as working times, occupational safety and health, minimum wages and collective agreements, overtime and other additional wage supplements, and leave and holiday allowances. In relation to the enforcement of the regulatory framework, the information channels tend to offer more information on sanctions and enforcement in case of non-compliance rather than on redress or appeal in case of sanctions and on compensations following the appeal. The least-covered topics are those related to taxation, which is present in only a third of the sources (34%, 13 out of 38), and work permits, which are covered by only one information channel (3%).

Regarding outgoing postings, only a small number of the information channels give information on topics related to the procedures and obligations of Italian sending companies. In relation to outgoing postings, the sample mainly covered topics related to registration for social insurance and contributions, taxation, and mandatory working conditions (such as working times, occupational safety and health, minimum wages and collective agreements, overtime and other additional wage supplements, and leave and holiday allowances). Topics related to enforcing the regulatory framework, such as enforcement and sanctions, as well as appeal and redress, are scarcely present. In contrast, topics related to work permits are not covered at all by any of the analysed sources.

The Practices, Challenges, and Needs of Posting and User Companies

The findings of the stakeholder interviews and the INFO-POW survey show that access to information can be a challenge to participating in posting. The main barriers relate to understanding the information provided, the time and effort required, language issues, and the cost of obtaining information. As emerged from the mapping and confirmed by stakeholder interviews and the survey, the main sources of information used by sending and receiving companies based in Italy are private consultancies or law firms, EU institutions, public authorities, and the receiving or sending company with which they work. They tend not to use sources linked to NGOs and trade unions. Before answering the INFO-POW survey, less than half of the respondents were aware of the existence of single national websites on posting in order to access information on their own country or, in the case of sending companies, on receiving countries. The stakeholder interviews show that private consultancy and law firms and employers' organisations have provided specific information services on posting for many years, often in collaboration with similar consultancy bodies or organisations in other EU Member States.

In our survey sample, the information most often searched for relates to remuneration, postings exceeding 12 months, prior notifications, requests for a Portable Document A1, and the payment of social security contributions. The topics that receive less attention relate to workers' health and safety and working conditions, such as working time, holidays, etc. The aspects of the posting procedures that the sending companies outsourced to external consultants mainly concerned accessing additional information concerning requests for a Portable Document A1 and the calculation of additional allowances to be paid to posted workers, such as overtime rates or allowances for working at night, on Sundays or public holidays.

The INFO-POW survey also investigated the topics on which respondents indicate that they would need additional information to send and/or receive posted workers correctly, which largely reflected the topics which companies searched for through the information sources and channels

– such as postings of more than 12 months, making a notification in the prior declaration tool of the receiving Member State, working conditions, reimbursement for travel and accommodation, and additional allowances. Additional suggestions included improving the support and guidance for determining appropriate wages and working conditions and widening the availability and accessibility of information on those topics. Concerning the accessibility and quality of information, sending and receiving companies considered it very important to have information channels available in different languages and containing up-to-date, sufficiently detailed, and easy-to-understand information. In addition, most respondents consider it very important to have an office or person who can be contacted via phone or in person for questions related to the posting of workers.

The stakeholder interviews provide further input on improving the available information channels from the point of view of both incoming and outgoing postings. Concerning incoming postings, some stakeholders focus on the information provided by the single Italian national website on posting (distaccoue.lavoro.gov.it). Although this website provides general information on the legal framework for posting workers in Italy and is translated into English, German, and Romanian, stakeholders highlight that it does not provide sufficiently detailed information on wages and the national collective agreements at a sectoral level for incoming posted workers. In fact, in Italy, the remuneration of posted workers should be based on the national sectoral collective agreements signed by the most representative employers' organisations and trade unions at the national level. Although the single official national website does provide the salary tables of the three main sectors in which posted workers are employed in Italy (construction, metalworking, and transport) and a link to the database of the National Council for Economy and Labour, which contains the 1,037 national collective agreements, the latter provides only the Italian versions of the documents, without indicating which agreement should be applied in different cases. This means foreign companies posting workers to Italy face language barriers and a lack of information when determining which collective agreement rules should be applied.

Additional challenges relate to incoming postings in the construction sector, as sending companies from countries without signed mutual

recognition and exemption agreements²⁸ must register their employees with the paritarian social funds in the province in which they provide their service employing posted workers. Therefore, even if companies based in countries without paritarian social funds in the construction industry receive information before the posting, many do not carry out compulsory registration, meaning that posted workers do not receive part of their salary paid through paritarian social funds.

Concerning outgoing postings, interviewees from employers' organisations and private consultancies report difficulties in accessing clear information through the websites of receiving countries. Indeed, these respondents cite the administrative procedures for the registration of PDs A1 in France and the information system in Austria and Germany as good practices that other EU Member states should also adopt. On the contrary, in their experience, the national posting websites of other countries usually provide only general information, without detailed information on the administrative procedures to be followed and, similarly to Italy, with difficult-to-understand information on working conditions. There are also challenges related to language barriers, as other national posting websites often do not provide translations in different languages (except English). Other challenges relate to the lack of homogeneity of administrative procedures in the receiving countries, which increases the difficulties for companies posting to two or more countries.

According to the interviews, these problems with accessing and using the existing information channels make it difficult for many companies to participate in posting, which could affect the provision of services through the employment of posted workers in the EU internal market. This is because only large companies have internal departments specialised in labour issues or human resources management that can manage the procedures autonomously, with most companies having to seek the support of external consultants, such as private labour consultancies and employers' organisations. Furthermore, as highlighted by the respondent from the National Bilateral Construction Industry Board, the difficulty of finding clear and accessible information in different languages was used as

²⁸ Mutual recognition and exemption agreements have only been signed with Austria, Germany, France, and San Marino.

an excuse to circumvent the regulations by those companies that used the posting of workers as a form of saving, thus triggering social dumping and unfair competition.

The Challenges of Information Providers and Their Efforts to Improve Access to Information

As shown in the previous section, receiving or sending companies have different needs and face different challenges in accessing and using information. In the same way, the challenges information providers face in ensuring the provision of and access to posting information tend to vary according to the type of posting undertaken by the target audience. In general, the rapid growth in incoming and outgoing postings that Italy has experienced in recent years, combined with new obligations to provide access to information following the implementation of Directives 2014/67/EU, 2018/957/EU, and 2019/1152/EU, has required the rapid updating of information channels and of the staff responsible for providing the information. This is the case, for example, with the single national website on posting, which was recently updated to include the translation of the information into two additional languages (German and Romanian). Similarly, the National Bilateral Construction Industry Board recently updated its website with a specific section on the posting of workers to Italy, providing foreign companies posting to Italy with detailed information on the obligation to register their workers with the Italian paritarian social funds and on the protocols Italy has signed with some countries regarding the mutual recognition of registration with paritarian social funds. In addition, some channels have updated their information based on the latest trends in intra-EU mobility, as is the case for the channels of the regional government of Friuli-Venezia Giulia. The interviewee from the Labour Policies Service of the Friuli-Venezia Giulia region reports that information requests are influenced by the location of this region at the border with Croatia and Slovenia and the increase in cross-border employment and

postings involving third-country nationals.²⁹ Consequently, the website and telephone information services of the Labour Policies Service have started to provide accurate information on the regulations and administrative procedures regarding work permits for incoming and outgoing posted workers from third countries, as the Italian single national posting website does not include this topic. More generally, regarding providing information on specific questions, the Italian Association of Construction Companies and the National Bilateral Construction Industry Board have organised themselves internally according to a pyramid model. First, posting and user undertakings can contact the local offices of these associations for clarification on specific issues. If the local offices cannot respond, consultation is requested from the national headquarters. At the same time, the national offices provide information and training to local offices, taking into account the specific requests from companies.

The challenges described above also affect the access to primary information sources by the information providers that are in direct contact with companies involved in the posting of workers or with posted workers. The organisations, institutions, and private consultancies interviewed for the INFO-POW project refer to the European and Italian legal framework as sources of information and, in the case of outgoing postings, to the legislation and the single national posting website of the receiving country. The increase in the number of outgoing postings registered in recent years has meant that companies based in Italy have had to deal with administrative procedures and regulations that differ from one country to another and which, in some cases, are not clearly explained on the single official national websites of the receiving countries. As a result, both employers' organisations and private consultancies have had to develop a network of contacts with foreign associations and consultancies to overcome the general lack of clear information. Another way of accessing and receiving updates on the relevant information is by taking part in the activities of institutions and organisations at the EU and national levels. For example, the Italian Association of Construction Companies participates in the European Construction Industry Federation (FIEC) discussions and has actively contributed to discussions within the Italian Parliament on

²⁹ See Cukut Krilić et al., 2020.

implementing the directives on posting; both the Italian Association of Construction Companies and the National Bilateral Construction Industry Board participate in EU projects on the posting of workers. Additionally, the Italian consultancy firm that was interviewed for the INFO-POW project has developed its own software to detect changes in the legislation on the posting of workers both at European and national levels in order to promptly update the information provided to customers through direct consultancy and specific data sheets contained on its website, thus allowing users to check whether companies have fulfilled all of their administrative obligations related to the working conditions of posted workers. All these solutions have made it possible to address some of the challenges in providing updated information that have arisen in recent years due to the internationalisation processes that have affected part of the construction sector. However, it must be pointed out that the providers filling the gaps in the public information system at national and EU levels usually provide only general information free of charge (e.g., EU Directives, Italian legislation on posting, etc.). In contrast, more detailed information is accessible only to registered members, as in the case of employers' organisations, or only after paying a fee, as in the case of private consultancies.

The stakeholders interviewed in the INFO-POW research have numerous suggestions for how to respond to these challenges. Related to language barriers, they recommend making the single national posting websites in all EU Member States available in as many languages as possible in order to facilitate access to information for both companies and workers. They also recommend adopting posting procedures that are more homogeneous and simplified at the transnational level by improving and extending to other countries some of the systems that currently work better (e.g., the administrative procedures for registering PDs A1 in France and the information system in Austria and Germany). Regarding remuneration, which constitutes an area where information is more difficult to understand, they recommend providing clear information and, in the case of Italy, want the Ministry of Labour and Social Policies to clarify what collective agreements must be applied in order to avoid the use of agreements with pejorative conditions leading to social dumping and unfair competition. Finally, the respondents suggest that it is important to increase the training

of institutional representatives and social partners at the provincial and regional levels since it is at these levels that companies and workers usually ask for support.

Conclusions

This chapter presents the challenges and needs of construction companies located in Italy in accessing and using information regarding the posting of workers. The analysis considers new empirical material collected through mixed methodologies by the INFO-POW project, based upon the mapping of 38 online and offline information channels provided by public actors and institutions, social partners, and private entities; semi-structured expert interviews with eight representatives of the public authorities, social partners, and private service providers that are responsible for providing information on posting; and the survey results of nine responding posting and user undertakings based in Italy.

The analysis of the empirical materials showed that many online and offline information channels are available to enterprises in the construction sector, providing information on both incoming and outgoing postings. Italian posting and user undertakings also have access to additional online information channels provided by EU institutions and public and private actors from other Member States. Additionally, the organisations, institutions, and private actors that provide information on posting used different channels, such as online resources, training events, and tailored consultancy services, allowing them to reach a large audience and, where necessary, provide more precise information based on individual needs.

Nevertheless, several gaps and barriers were revealed that made it difficult for companies to access the correct information on posting. For example, the INFO-POW survey shows that Italian companies included in the survey use a mix of information channels; it also reveals that they were not always aware of the single official national websites on posting. Furthermore, we found that most of the mapped information channels were available only in Italian, with only a small number also providing translations in English

or additional languages, thus making accessing information difficult for companies based in other Member States who wanted to post their employees to Italy. Likewise, information sources translated into other languages were not always available in other Member States, thus creating a challenge for posting undertakings and posted workers from Italy. Moreover, companies were often forced to turn to private paid services due to their difficulty in finding sufficiently clear information through official public channels (e.g., the single national websites on posting) and, in the case of small- and medium-sized enterprises, their lack of adequately trained internal staff.

As a result, language barriers and the difficulty encountered by some companies in independently accessing clear information indirectly impede the posting of workers to potential sending and receiving companies. These barriers foster the formation of a business model in which the market for services is dominated and conditioned by companies that are economically able to bear the costs of accessing (in-house and/or external) consulting services, thus undermining the free access to the single market for services, as envisaged by the EU directives on the posting of workers.

Further challenges arise because, in many cases, the information channels in the mapping exercise only used text. In several channels, the content consists only of extracts from reports or comments on current regulations, making it difficult to consult the information, particularly for those who do not yet have sufficient knowledge of the procedures. The interviews and the online survey show that access to easily understandable and accessible information is all the more urgent, given that there is still no standardisation of administrative procedures at the EU level. Furthermore, both the interviews and the online survey draw attention to the language issues, highlighting how the lack of additional language translations fails to consider the needs generated by the increase in incoming postings, which has led to a greater demand for information translated into other languages, coming in particular from posted workers, but also from those foreign companies posting to Italy that do not have staff who can read and understand Italian and so have to turn to external services (consultancies, lawyers, etc.). Another concern is determining the working conditions and remuneration in specific cases. As emerged from the results of the Info-Pow project, this is a challenge common to all the countries involved in the posting of workers

(Danaj et al., 2023; De Smedt & De Wispelaere, 2023; Kureková et al., 2023; Vah Jevšnik & Toplak, 2023), but in the Italian case the complexity of the national collective bargaining model and the lack of clarity of the single national posting website make access to correct information particularly difficult and, consequently, affect the compliance of sending companies. Indeed, the interviewed stakeholders detected cases of incoming postings in which companies used unfavourable contracts with lower standards than the reference contracts signed by the most representative trade unions and employers' organisations. In this way, companies that post their workers in Italy can exercise forms of social dumping and unfair competition by exploiting gaps in the information system to their advantage – thus leading to the spread of practices that the posting directives are intended to prevent.

These gaps and barriers in information provision can be overcome by following the good practices proposed by some information providers in Italy and also in other Member States, such as the use of a mixed approach integrating various methods of information provision depending on the individual needs of companies, and the homogenisation of administrative procedures adopting the model already used in some Member States. However, more broadly, the INFO-POW findings highlight the need to increase transnational cooperation and to develop a more unitary approach to the problems of access to information on posting that arise in individual Member States. There is room for numerous improvements: translating information materials into more languages should be the first step. Furthermore, a common standard can be established for the single national websites on posting, taking as a reference the most comprehensive sites (such as those of Belgium or Austria) and including some topics on which there is little information (such as taxation and work permits). This will benefit not only companies, which will be able to access the EU single market more easily, without being constrained by the cost and time of information provision, but also workers, who will have better and more comprehensive access to information on their rights.

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ACCESS TO INFORMATION ON THE POSTING OF WORKERS: COMPANY PRACTICES AND CHALLENGES IN THE CASE OF SLOVAKIA

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Introduction

As workers are becoming increasingly mobile, the use of the posting of workers has been on the rise in Slovakia. This is a reflection of the labour and skill shortages facing the construction industry specifically, as well as the entire economy. The construction sector holds an important position in the Slovak national economy and is highly internationalised (ECSSO, 2021). Indeed, posted workers from Slovakia are most often employed in the construction sector (52.5%) (De Wispelaere et al., 2022). Skill and labour shortages are likely to persist in the coming years with several large infrastructural projects are planned, the expansion of FDI investment, and the continued rapid aging of the workforce (Machlica et al., 2017). It is thus anticipated that labour mobility, including the posting of workers, will keep expanding. This is already reflected in migration data, which demonstrates a rise in posting as well as in labour migration to Slovakia in the past years, including migration from third countries. However, the existing regulatory framework of migration and integration policy remains complex, with fairly frequent changes to registration requirements and other conditions as well as lengthy and complicated procedures (Bajzík & Bajzík, 2020; Přívara & Rievajová, 2021).

Regarding the posting of workers as a tool of intra-EU labour mobility, in 2021, Slovakia was ranked as the ninth-largest sending country in the EU, having issued 106,212 PDs A1 (De Wispelaere et al., 2022). Slovakia issues

more PDs A1 than it receives, with the net balance of PDs A1 issued and received being 64,014 in 2021. Workers from Slovakia posted to work in one country, i.e., those posted under Article 12, are most often posted to Germany (57.4%), Austria (10%), the Czech Republic (7.5%), the Netherlands (5.1%), and Belgium (4.7%). Furthermore, half of the PDs A1 under Article 12 are issued to self-employed workers, making Slovakia stand out compared to other Member States – the EU average being 6%.

Due to its highly regulated nature and a complex legal framework transcending national boundaries, access to information is a key prerequisite for the lawful application of the existing posting rules. By extension of this logic, barriers to gaining accurate, timely, and reliable information on duties related to posting at low cost increase the risk of non-compliance by companies and jeopardise equal and fair treatment of posted workers (Danaj et al., 2022). To the best of our knowledge, to date, in Slovakia, no systematic review of access to posting information is available regarding the channels, the breadth and depth of available information, the main gaps, or the role of public institutions and other actors therein.

To fill this gap, this chapter systematically maps employers' access to information about the posting of workers in Slovakia. More specifically, the research questions concern the undertakings' search and use of information on the posting of workers. We mapped information channels and their providers to evaluate these issues and assess their availability, accessibility, and quality. Furthermore, we also investigated these aspects from the stakeholders' perspectives in the interview phase and undertakings in the online survey. The findings presented in this chapter are based on the data gathered in the mapping of 41 information channels, interviews with 9 key stakeholders, and the online pilot survey of posting and receiving undertakings. Eighteen companies legally registered in Slovakia completed the survey; 14 of them are primarily posting undertakings. Most survey respondents are medium-sized companies; aside from those active in the construction sector, some are manufacturing companies (Kureková et al., 2023). A closer description of the methodology used in this project, including its limitations, can be found in the chapter on methodology.

We analyse the challenges and needs of posting and user undertakings based on information gaps identified in the mapping exercise, information

provided by stakeholders during the interview stage, and the pilot online survey. These data are used to produce conclusions on the dynamics of “posting information infrastructure” and to recommend how access to and quality of information on the posting of workers in Slovakia can be improved. A detailed analysis is presented in an extensive study by Kureková et al. (2023), while this e-book chapter concisely distils the main messages and evidence.

We argue that the current legal and institutional arrangement of posting issues in Slovakia has not been able to overcome the existing complexity. Information on the posting of workers in Slovakia remains fragmented across actors and various channels. Currently, several public institutions are involved in providing information and face coordination challenges among each other. Legal areas are divided between institutions responsible for these varied agendas, providing only information related to their field. Furthermore, a single website containing all rules and obligations is currently lacking. Additionally, state institutions, NGOs, and social partners are underrepresented as information providers on posting compared to other country case studies in the INFO-POW project (Kayran et al., 2023). This leads to the prevalence of channels provided by private actors, which may negatively impact access to information on posting, as services by private actors are often monetised. Furthermore, to receive all necessary information, undertakings must use multiple sources, which may be of varying quality. Difficulty gaining access to information on responsibilities related to posting increases the risk of non-compliance and amplifies inequalities between companies based on size and resources.

Access to Information: Channels and Practices

The transposition of European-level legislation on the posting of workers took place through [Act No. 311/2001 \(the Labour Code\)](#) and [Act No. 351/2015 Coll. on cross-border co-operation in the posting of workers](#). The National Labour Inspectorate (NLI), as an agency of the Ministry of Labour, Social Affairs and Family, is the institution responsible for monitoring and

enforcing regulations related to employment and working conditions. Additionally, the Inspectorate is tasked with providing information on the posting of workers. It does so by hosting a single national posting website and providing free advice on posting. In addition to NLI as the key informant about posting, our mapping exercise identified many other information providers.

Based on the criteria set out in the mapping exercise (Danaj et al., 2023), 41 information channels on the posting of workers were identified in the Slovak case study. Compared to the mapping exercises conducted by partner institutions, non-state actors were far more prevalent as information providers, as only seven channels (17%) were provided by state actors (Danaj et al., 2023). The 34 non-state actors (83%) included consultancies, law firms, publishing houses, online journals, research and educational organisations. Furthermore, NGOs and social partner institutions were not found to provide any information on the posting of workers, except for one European social partner platform. This sets Slovakia apart from other countries presented in the book, where social actors play an active role in posting information provision (Danaj et al., 2023).

Information provided on the websites of public institutions was found to be fragmented, as no website provides all the information necessary as stipulated in the [Enforcement Directive](#). While the National Labour Inspectorate website is considered by public authorities to be the single national posting website, it does not provide detailed information on issues related to the social security obligations in the posting of workers. The Inspectorate only provides a hyperlink to the Social Insurance Agency website, the second public institution attaining a key informant role.

Almost all of the identified information channels were provided online (95%), which supports the preferred choice of companies well, as was found in our survey. The content of the provided information most often concerns the “hardcore” provisions which apply to posted workers. All except one channel target employers, mostly undertakings based in Slovakia that send or receive posted workers. Only 11 information channels (27%) target workers.

A key finding of our research is the relatively widespread monetisation of information on posting. Most channels were privately funded or for profit

(27 channels, 66%) and 10 were publicly funded (10 channels, 24%). Channels provided by publicly funded actors were all accessible free of charge, while only close to half of those privately funded were free. Overall, two-thirds of the channels were freely accessible, a few required registrations to access the content, and almost one-third were paywalled. Although sources were not purchased for this project, the available material suggests that paid channels provided more detailed and specific information. However, during the interview stage, respondents state that public institutions provide specific information and solutions to problems upon request via e-mail or phone. Based on this information, we believe that public channels are equally, if not more, detailed and precise than private channels, but an information seeker needs to exert additional effort to reach this information. It is also not evident that the option to pursue more details is readily available, as no prompt to follow up on specific details was found on the single national website or other public websites. For example, the National Liaison Officer for posting is based at the National Labour Inspectorate, providing detailed contact information to the officer on its website. However, information on the national contact point is rarely provided on other information channels – only 28% provided some or all contact information about the National Liaison Officer (8 out of 29 channels which could be confidently assessed).

Information channels on the posting of workers are deficient in their availability in other languages, as information in 68% of the channels is only available in the national language. In 17%, it is available in one additional language (28 and 7 out of 41, respectively). While English and German are the two language variations provided most often, only 29% of information channels are translated into English (12 channels). Publicly funded actors are found to provide information in other languages more often than privately funded actors. However, the National Labour Inspectorate website is the only state institution on the national level that provides information in English, as well as in other languages. Information on social security provided by the Slovak Insurance Agency is only available in the national language. Furthermore, translated information is often not equivalent to information provided in the national language since out of the six publicly funded channels available in English, only three are equivalent.

We identified numerous information-sharing practices, which differed in intensity across actors. In addition to more passive and non-interactive forms of information provision that transpired via mapping, interviews revealed that actors often engage in other forms of information provision (Table 4).

Table 4: Types of content and tools applied by specific actors (Source: Kureková et al., 2023).

| Actors represented in interviews | Non-interactive | Interactive |
|---|--|---|
| Social Insurance Agency | Information provided on the website relates to the rules on social security. | Individual consultations available via phone lines. Complex enquiries dealt with in a written form. |
| National Labour Inspectorate | Information provided on the website relates to the rules on labour law. | Provides webinars/trainings related to legislative changes. Individual phone consultations, in person/online advice by regional offices. |
| Trade union | None. | None. |
| ELA | European institutional websites provide information on the European level. Leaflets are handed out at joint inspections. | Webinars, meetings with stakeholders. Does not approach companies but supports national stakeholders and institutions through campaigns. |
| Employers' association | None. | Facilitates exchange of information between undertakings and organizes roundtables. |
| Law firm | None. | Provides comprehensive legal services to undertakings, including those related to the posting of workers. |
| Ministry of Labour, Social Affairs and Family | The website provides little information on posting. Brochures and reports prepared in the past. | Information and guidance provided on demand, typically to social partners. |

Note: Channels that are accessible to the general public and provide general information that is not catered to the needs of individual companies, i.e., websites or leaflets, were grouped as non-interactive. Interactive means of providing information include consultations provided by public institutions to companies and events and efforts facilitating the exchange of information between public institutions and companies and amongst each other.

These other forms include individual consultations in person or on the phone to specific questions raised by companies, detailed written responses to specific queries or organisation of closed and targeted events

for members or stakeholders. As enforcement institutions, it is evident that the National Labour Inspectorate and Social Insurance Agency apply the greatest variety of tools, offer both general and specific content (upon request), and most directly target companies. Other actors, such as ELA or employers' associations, tend to provide and organise more sporadic and targeted events with a very concrete agenda and typically smaller audiences

According to survey results, companies mostly turn to public authorities for information, followed by consultancies and EU institutions. When asked about the preferred channels for information on posting, survey respondents marked institutional websites and personal contact, which accurately mirrors the actors and practices described above (Table 4). A third of respondents would also like to receive information from social partners. Topics which companies identify as most searched for included information about PD A1, wages, additional allowances, and notification obligations.

Posting and User Companies' Challenges and Needs

The online survey asked undertakings about their experiences, needs, and preferences. When asked about the importance of six aspects related to seeking information, respondents most valued information is easy to understand, up to date, sufficiently detailed, and available in a single place. The availability of information in different languages and the ability to contact an office or person with questions were seen as less important than the aforementioned aspects. However, over half of the respondents describe them as very important. Despite some information gaps identified in the mapping exercise, the single national website and other public authorities' websites are deemed useful. Nevertheless, most companies agree that they need additional information to apply the posting rules correctly. More specifically, information is needed on wages, additional allowances, long-term posting, payment of social security contributions, and working conditions during posting.

Issues faced by survey respondents include frequent changes in legislation and the language barrier. Indeed, updates to the National Labour Inspectorate website most often follow changes to the posting rules. However, the website might appear confusing about the accuracy and recency of information, as some subsections were added in 2016. Most information channels were last updated in 2020, which can be attributed to the transposition of the Revised Posting Directive. However, this may not be clear to users unfamiliar with posting legislation, and it might create uncertainty about the reliability of information. The recency of information is a general setback of channels identified in Slovakia. Out of all 41 mapped channels of information, 24% did not include the date of the information or the last update. Lack of information on recency or provision of dated information could create confusion on the currently applicable rules on posting. Out of 18 survey respondents, 17 indicate that information being up to date is very important when seeking posting-related information; the remaining respondent finds recency fairly important.

A further gap in the available information is the lack of sector-specific information. Public institutions do not provide information specific to the construction sector, as rules on posting are generally not based on the sector of activities, except for collective agreements. While collective agreements are included on the national posting website, they are only available in the national language and, at the time of writing, are not updated, i.e., do not mention the collective agreement currently applicable to construction companies at the sectoral level. Determining applicable wages and working conditions for posted workers is deemed fairly difficult by nine out of fourteen posting companies and very difficult by three. Half of the respondents believe that the difficulty depends on the country to which workers are sent. Respondents who provided additional information indicate that they struggle with determining wage scales applicable for certain professions and minimum wages in specific regions.

An interesting finding from the survey results is that only 11% of undertakings registered in Slovakia (2 out of 18) find access to information challenging about the posting of workers. 78% of respondents (14) indicate that access to information was not a challenge for their company to participate in posting. The sample of companies registered in Slovakia varies

considerably compared to the overall sample, where 44% of respondents (53 out of 121) say that access to information is a challenge. These results may be affected by the sample of undertakings already participating in posting or receiving workers, and those unable to participate for lack of access are excluded.

Respondents were also asked to rate the relevance of five factors in creating challenges for companies in accessing information. Understanding of the provided information is deemed most relevant by respondents – 72% consider it very relevant or fairly relevant, while the time and effort required is relevant to 56% of respondents. The three remaining factors – digital skills, language, and cost of retrieving information – do not create challenges for companies, according to most respondents. Given the option to list other factors, undertakings note that “the reliability of information and clearly listed obligations” are fairly relevant and would find value in feedback on the fulfilment of obligations provided by authorities. Companies identify support and guidance, improved clarity and quality of information, and improved availability and accessibility of information as the most useful elements for increasing compliance. On the other hand, increased penalties and inspections are seen as unhelpful. Thus, while Slovak companies indicate that access to information is not a barrier for them to engage in posting, the quality, clarity, and availability of information provided bears on implementing the rules and procedures and compliance.

Finally, one of the most evident challenges is the fragmentation of information channels that forces companies to search for information across different public channels. Specifically, although the National Labour Inspectorate provides a single national website on posting according to the Posting Directive, it is not explicitly labelled as such. Additionally, the rules on labour law and social security law are not clearly differentiated, and the necessity to visit the website of the Social Insurance Agency is not stressed. Tax-related matters are not covered at all, while information on sanctions and their redress is also missing. We interpret the high proportion of private channels in the Slovak context as a market response to the fairly scattered provision of information by public sources.

Information Providers' Challenges

Posting companies' needs and challenges are reflected in the challenges experienced concerning the provision and use of information on the posting of workers faced by information providers (Table 5). We identify and address four main areas: fragmentation vs. clarity, complexity vs. accessibility, content and accuracy, and language. Although the challenges are intertwined, they are divided based on the difficulties the undertakings face.

Information on posting is offered on multiple websites, which mirrors the division of roles and competencies of enforcement agencies linked to the Labour Ministry. Interestingly, the representatives of institutions believe that such breaking of information over multiple channels makes the available information less overwhelming for a user. Moreover, from the perspective of the information provider, it also helps to manage the multifaceted instrument on an institutional level and inform about the obligations resulting from the system of rules attached to that particular actor. Interestingly, a respondent interprets this fragmentation as a strength, arguing that information is more focused, adding clarity and understandability.

All public information providers mention that they struggle to balance detail and parsimony in providing posting information. In particular, they raise that covering such a complex issue on a single website is impossible. Public actors assume that the information users do not have legal backgrounds and are unfamiliar with the rules on posting. Rather, they argue, personal contact can better provide more specific information. However, as we highlighted earlier, this possibility is not evident in how public websites are organised. Moreover, while this might be a reasonable approach, in practice, this results in the fact that freely available information remains rather broad.

The lack of specific information due to the conflict between complexity and accessibility is closely related to the third identified challenge. Information providers themselves face information barriers in providing specific information on wages and collective agreements, especially those applicable in other Member States. Importantly, in other countries, social partners, who are the key bearers of working conditions negotiations and can

reliably guide companies in specific questions about posting, can effectively cover this information gap. In this regard, the institutions responsible for providing information on posting in Slovakia report a need for additional financial resources to maintain the information’s reliability and recency.

Finally, the views on the issue of language are not unified among stakeholders. While some actors express the need for the availability of information in various languages, representatives of public institutions believe that information provided in English is sufficient. We find evidence that companies appreciate the possibility of communicating in their “mother” language due to the complexity of posting, which contributes to the decision to use the services of private actors. As institutions provide information and services at regional offices, it may not be possible to ensure that employees are available for consultations in English or German at all times. It seems that language availability is likely to improve in the near future. The Social Insurance Agency plans to make its redesigned website available in English. Furthermore, ELA provides a translation facility available to the Member States’ institutions and social partners that can be used to improve information provision about posting.

Table 5: Overview of challenges experienced by user/posting undertakings and information providers (Source: Kureková et al., 2023).

| Challenges | Experienced by undertakings | Experienced by providers |
|--|---|---|
| Fragmentation of information vs. clarity | Information is scattered over multiple websites and institutions. | Cannot provide information on all aspects of posting, as it would be overwhelming. |
| Complexity of regulatory framework vs. accessibility | Those searching for information are usually not lawyers, and experience difficulty understanding the obligations. | More resources needed in order to keep information updated and reliable. |
| Content/accuracy of the information | Content is too general. | Lack of regulation on sanctions. |
| Language | Foreign companies prefer to receive information in their mother tongue, as the context is complex, and the regulatory framework is also country specific. | It is not possible to provide and update information in all possible languages; online consultations are given in English or in Slovak. |

Providers' efforts, recommendations and future plans to improve access

In our research, we identify that public institutions continuously make efforts to improve both the general information basis and that concerning posting. For example, the Slovak national posting website stands out in that it also includes information not listed in the Posting of Workers Directive, such as illegal employment or employment of third-country nationals. Representatives of the National Labour Inspectorate believe that providing information not strictly connected to posting benefits the undertakings' broader understanding of the issue. Similarly, the Social Insurance Agency has recently redesigned its general website to make it more user-friendly for clients. The new version of the website first asks the user to select their situation or employment status and the specific category of information they seek. The "Work abroad" subcategory is offered where applicable and leads to information on PD A1. While the redesigned website does not yet offer an option to switch to another language, personal consultations via e-mail and phone are available in English and German, and the translation of the website has been planned.

To make access to information more efficient, public information providers have moved away from offline sources of information, such as leaflets, and have invested in other forms of providing posting information. Based on their experiences providing information on posting, public respondents believe that the most effective way to disseminate information is through online channels; this is corroborated by the preferences of companies expressed in the survey. Aside from the posting website, the Inspectorate disseminates information also through Facebook. In addition to institutional websites, conversations with stakeholders reveal the crucial role of personal contact with employees of the National Labour Inspectorate and the Social Insurance Agency via phone lines and e-mails. Staff are well-trained and professional in providing timely and accurate information, as the interviews with various stakeholders reflect. Information on the posting of workers is also provided through regional offices of the Inspectorate and the Agency, employees of which are again trained to provide such information. When substantive changes to the legislation on posting are made, the Inspectorate actively organises events or webinars to inform stakeholders.

We also identify a very specific form of engaging with companies and sharing knowledge and information concerning strategies of employers' associations. The representative of the employers' association highlights concerted efforts to support mutual learning and peer learning in the form of organised round tables and other closed events. Companies may be reluctant to contact public institutions due to the possibility of being found non-compliant with the rules on posting. This is why the employers' association facilitates activities where companies can share information or anonymously pose questions to public institutions. Such activities also allowed for the sharing of information, including that related to posting, between companies, which was identified as a very effective way of learning by other stakeholders. While mapping of information channels did not find any channel mastered by employer association, the interviews and survey show that they have played a role in disseminating information about posting. Eight survey respondents have used employers' associations' websites and rate them relatively highly, while one-third would prefer to receive information through these websites in the future.

Interviewed stakeholders provide their own recommendations as well. Two respondents suggest a single digital portal and digitalised posting procedure and providing information on national legislation related to posting through a centralised point. Additionally, cooperation between institutions, including social partners, and between companies should be scaled up. The role of labour unions in improving access to information is especially needed for support. Lastly, stakeholders suggest further diversifying practices of providing information, e.g., through free trainings and videos, which might be more accessible to a larger audience.

Conclusions

This chapter reviews and highlights key actors and channels in posting information provision, and the main challenges that posting and user undertakings and public information providers face. We raise setbacks of existing fragmentation and evaluate it concerning advantages proclaimed

by public providers who see the existing division of posting agendas as adding clarity and accuracy. Our evidence suggests that although there has been a marked improvement in the quality of provided posting information, fragmentation of information is an important barrier which seems to have resulted in an exceptionally high number of private information providers (see also Moran & Kureková, 2023). Thus, while public institutions offer good quality services and have been very well assessed, we believe there is scope for further improvement in the area of access to information about the posting of workers in Slovakia. We, therefore, suggest the following broad recommendations.

Firstly, the political ownership of posting issues appears rather weak in Slovakia. We propose that the complex system of rights and obligations from various legal areas be managed by a strong institution that takes on the coordinator role. While the Labour Ministry attained a more active role in the past, currently, competence over the posting agenda is allocated to the National Labour Inspectorate and the Social Insurance Agency. These bodies, however, do not hold political power to introduce changes that would result in more integrated information provision.

The second set of recommendations concerns improvements to the national posting website. These improvements can be done either through the development of a new website or changes made to the existing website of the National Labour Inspectorate. Creating a new posting website should make it possible to include all aspects of posting in a single place, similar to the Austrian posting [website](#). However, a range of smaller adjustments could also improve the accessibility of information (see Kureková et al. 2023 for details on these changes). These include measures such as:

Labelling the NLI website as the national posting website (e.g., [www.vysielanie.sk](#)) and clearly marking that NLI is the national contact point.

Making more evident that the NIP website provides employment and labour law information, and the SIA website provides social security information, and the difference between the two websites.

- Improving the information about recency (e.g., dates of when the websites were updated).
- Making foreign language versions equivalent to the original Slovak versions of NLI and SIA websites.

- Providing more information on collective agreements, especially at a national level.
- Adding a list of key single national posting websites (e.g., from the main posting partners) as an authoritative source of posting information.
- Making hyperlinking more effective and regularly checking whether provided hyperlinks remain active.

We envisage great potential for larger involvement of social partners in posting generally and in information provision about posting particularly. While employers' associations in Slovakia provide some information to companies, trade unions are not at all involved in the posting agenda. The findings of the INFO-POW project suggest that privately funded actors are filling the gap left by social partners. However, the lack of free information sources may lead to disparity between undertakings. Additionally, social partners are better suited as information providers due to their connection to organisations on the European level, their involvement in social dialogue, and their role as representatives of employers or employees. The results of the online survey also point to social partners as desired information providers, and the findings of partner institutions working on the INFO-POW project show that social partners are important information providers that complement public institutions in this regard (e.g., De Smedt & De Wispelaere, 2023; Danaj et al., 2023). Therefore, we suggest that resources be allocated to supporting labour unions and employers' associations in providing information on posting.

Lastly, research suggests that issues with access to information persist not only about the posting of workers but also in labour migration more generally (Kováčová et al., 2021). Posting of third-country nationals is especially difficult for companies (ELA, 2023). We recommend that information on posting is interpreted and contextualised in connection to other forms of labour migration and integration policies to assist undertakings in identifying the applicable rules and complying with them in the plethora of options for labour migration and labour mobility in the EU.

Additional information

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ACCESS TO INFORMATION ON THE POSTING OF WORKERS: COMPANY PRACTICES AND CHALLENGES IN THE CASE OF SLOVENIA

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Introduction

In the European Union (EU), Slovenia has been one of the main sending Member States of posted workers, mainly towards Germany and Austria. The upward trend of the posting of workers to other EU Member States has been persistent for years and even continued in 2020 despite the COVID-19 pandemic. Outgoing posted workers from Slovenia amount to about 7% of total employment in Slovenia and even to some 30% of total employment in the Slovenian construction sector. The latter is the highest percentage share of postings in the construction sector among all Member States (De Wispelaere et al., 2021). Most PDs A1 from Slovenia are issued in the construction sector, followed by installation/assembly and servicing, industry and international freight transport³⁰ (Vah Jevšnik & Toplak, 2023).

The Slovenian construction sector has been expanding in recent years. The number of construction companies registered in Slovenia in 2022 was 22,758, or 11.8% of all registered companies. According to Eurostat,

30 The figures on posting by sector of activity are not available for the persons posted, but only for the number of Portable Documents A1 (PD A1) issued. PD A1 is a certificate that proves that the social security legislation of the issuing Member State applies and confirms that the person concerned has no obligations to pay social security contributions in another Member State. PD A1 is issued according to Article 12 of Regulation (EC) No 883/2004 on the coordination of social security systems for every posting assignment. Consequently, individual workers can be posted abroad several times and the number of issued PDs A1 does, therefore, not correspond with the number of actual persons posted.

Slovenia also marked the highest annual increase in construction output in the EU in January 2023, at 26.7%. In monthly terms, Slovenia recorded the highest increase in construction production among the EU Member States in Southeast Europe (SEE), for which data is available, and the second largest in the EU, at 9.8% (Miteva, 2023). The percentage of employed and self-employed persons in the construction sector in 2022 was nearly 11% of all persons in employment. This amount is an increase of around 13% from 2019. Most notable is the increase in the employment of third-country nationals (TCNs) – around 30% compared to 2019. The trend of employing and posting TCNs in the construction sector has been an especially notable characteristic of the Slovenian labour market. In 2021, 62% of the workers posted by Slovenian undertakings were TCNs. The share of all employed TCNs in total employment was 10.3%, which shows that TCNs are significantly overrepresented in the group of outgoing posted workers from Slovenia. The share of employed TCNs posted was 43.6%. Only one out of three workers posted from Slovenia had Slovenian nationality. The percentage of employed Slovenian nationals posted was less than 3%. Compared to 2018, the percentage of posted workers who are Slovenian nationals and EU nationals in 2021 has decreased by nearly 10%, while the share of third-country nationals increased by over 70%. TCNs posted from Slovenia are almost exclusively the citizens of former Yugoslavian republics, i.e., Bosnia and Herzegovina (BiH), Serbia, Kosovo, North Macedonia, and Montenegro. Among them, the highest number and share of TCNs posted from Slovenia have continuously been BiH nationals (62.9%).

Posting to Slovenia has been less notable, although the number of workers posted to Slovenia and, subsequently, the number of notifications in the prior declaration tool increased significantly from 2020 to 2021. In the construction sector, in particular, there was a notable rise in the number of notifications (47%) and workers posted to Slovenia (32%).

The challenges and needs of the posting companies in accessing and using relevant information regarding the posting of workers, including those who are third-country nationals and may be subject to additional conditions, are manifold. Namely, all workers who are posted to temporarily provide services in different EU Member States are subject to employment and social security regulations that are in place in the receiving countries. The

regulations vary significantly across the EU and are accompanied by country-specific administrative procedures employers must comply with when posting or receiving them. However, finding reliable and comprehensive country-specific and sector-specific information on the posting rules, either when posting or receiving workers, can be very challenging and time-consuming for companies, as such information may not be easily accessible and readily available.³¹ Since access to comprehensive, relevant, trusted, and updated information on the applicable laws is paramount to ensure companies' compliance with relevant national legislation, efforts must be made to guarantee effective information sharing that reaches all stakeholders involved in the posting process.

This chapter gives an overview of the information channels that provide information regarding the posting of workers from and to Slovenia, the challenges of the companies in terms of their access and use of information on the posting of workers, and the challenges of providers of information on the posting of workers in Slovenia. The specific focus is on the posting *from* Slovenia in the construction sector, which is the sector that has been continuously and persistently posting workers to various EU Member States.³² The discussion is based on three types of empirical data collected as part of the Slovenian fieldwork of the INFO-POW project. The first set is the analysis of 36 channels of information on the posting identified in the mapping exercise for Slovenia, comprised primarily of national and regional online information sources.³³ Our sampling of the information channels aimed to cover relevant units of channels that are discoverable through desk research. It should be noted, however, that the list is not exhaustive and merely indicates the type and quality of information provided by the selected (public or private) providers. The second set of empirical data is drawn from six qualitative

31 European Labour Authority (ELA), for instance, notes in its report concerning information provision, enforcement, social security coordination and cooperation between Member States in relation to the posting of workers in the EU construction sector that there are major deficiencies in the communication tools and methods when it comes to posting workers abroad, "Leading to confusion and difficulty in accessing relevant information, for instance use of complex legal language, lack of translations, and scattered sources of information" (ELA, 2023).

32 The overall findings are provided in the INFO-POW country report for Slovenia (Vah Jevšnik & Toplak, 2023).

33 The mapping was conducted from January 15 to February 23, 2023.

interviews³⁴ conducted with the representatives of public authorities, social partners, and private consultants involved in providing information about posting and/or user undertakings in Slovenia. The interviews had a two-fold objective: to validate the results of the mapping exercise and to generate new empirical data on aspects that cannot be captured by the other methods used during the fieldwork, such as stakeholders' reflections on the quality of the available information on posting in terms of accuracy, accessibility, and use/application of information. The third set of empirical data is drawn from an online survey on the information-related needs and challenges of the posting and user undertakings in the construction sector in Slovenia.³⁵ Despite the significant effort in disseminating the questionnaire, only 29 companies completed the survey. Due to this low response rate, the results are indicative and, therefore, not representative of all companies involved in the posting of workers in the construction sector.

Access to Information: Channels and Practices

Slovenia has transposed all Directives on the posting of workers (Directive 96/71/EC, Directive 2014/67/EU, Directive 2018/957/EU, **Directive (EU) 2020/1057**), which all aim to strengthen the protection of posted workers and ensure their rights are protected when posted abroad to provide services. The Enforcement Directive (Directive 2014/67/EU), in particular, notes the paramount importance of information sharing on terms and conditions of employment in different Member States to achieve these goals. The Directive states that Member States should “ensure that such information is generally made available, free of charge and that effective access to it is provided, not only to service providers from other Member States but also to the posted workers concerned” (Paragraph 18). It stipulates that Member States should establish a single official national website in the most relevant languages, providing up-to-date information on the posting of workers in a transparent and accessible manner. The amended Directive 2018/957/

34 The interviews were conducted in March and April 2023.

35 The web survey was launched on April 20, 2023 and closed on August 15, 2023.

EU further stresses the importance of information sharing and explicitly emphasises the connection between access to information and compliance with the regulations. Furthermore, the Directive requires Member States to include all mandatory elements constituting pay and the additional terms and obligations of employment related to postings on the single official national website, ensuring that the information provided is accurate and up to date.

The findings from the desk research show that several public and private channels of information in Slovenia, such as public authorities, employers' associations, trade unions, NGOs, consultants, etc., offer some information on the posting of workers. Our sample included websites (55%), online trainings/webinars (17%), online manuals and guidelines (14%), and other online forms of information, such as videos, online leaflets/brochures for print-out, and written educational material that can be purchased and accessed for a certain period. Eleven pre-determined categories were selected as a measure of the content and scope coverage of our sample: working time/work hours; occupational safety and health; minimum wage/collective agreements; registration for social insurance/contribution; work permits; overtime and other additional supplements including bonuses and wage supplements such as night and weekend shifts; leave and holiday; facilitating information targeted to companies; sanctions and enforcement; redress and appeal; and taxation. All categories were coded according to whether they addressed posting *to* Slovenia or posting *from* Slovenia. Unsurprisingly, topics covering posting *from* Slovenia are significantly more widely covered than posting *to* Slovenia.

We found that most information channels in our sample provide the definition of posting, information on the rules and regulations concerning the issuing of PDs A1, and generic information on the regulations of the posting of workers as stipulated in the Posting Directive 2014/67/EU. Finding specific information relevant to individual sectors and applicable to different national contexts is much more difficult. Among the eleven categories analysed, most online channels address issues such as minimum wage/collective agreements, working time/hours, overtime and additional supplements, facilitation of information targeted to companies and taxation, but in a generic manner and without any detailed information.

Even less attention is given to occupational safety and health and enforcing rules, regulations, sanctions, and appeals. In fact, redress and appeal are not covered by any of the sources in our dataset.

The single official national website on the posting of workers in Slovenia³⁶ is functional and provides basic information, including links to external websites. However, our findings show that users frequently consult other available information channels. This can be problematic, as De Wispelaere and De Smedt (2023) note, because the official website guarantees the accuracy of the information. In contrast, some other information sources might not provide accurate and updated information. This “increases the likelihood of (unintentional) noncompliance with the applicable terms and conditions of employment” (2023: 1). We find that there is a notable necessity to use different information channels in order to obtain comprehensive information, and this fragmentation of information is a significant limitation. In most cases, users must combine content from several sources, such as websites, handbooks, educational seminars, and contact persons at competent authorities, to obtain complete information.

According to the survey, the most sought-after topic is the information on the notification in the prior declaration tool of the receiving Member State, followed by the information on wages and additional allowances (such as overtime rates, allowance for working at night, allowance for working on Sundays, or on public holidays), and payment of personal income tax. The respondents report having less need for additional information on PDS A1 and the occupational safety and health of posted workers. The latter is likely not due to insufficient comprehensive information because the mapping shows that information on OSH is very scarce. It might be that employers overlook the aspect of OSH as less important and, therefore, do not specifically look for such information.

When asked about the preferred information channels, the respondents note that websites are useful because they are readily available. However, a more efficient way of obtaining information is through a phone call with a contact person at stakeholder organisations because there is a better chance that the information obtained will be more detailed. One respondent notes:

36 Napotitev delavcev na delo v tujino: <https://www.gov.si/teme/napotitev-delavcev-na-delo-v-tujino/>.

Certain Slovenian websites are good. The problem is, however, that they provide few concrete examples from practice. There is a lot of general information (for example, we all know that we need to notify the foreign authorities) but very little specific information (e.g., about Freistellung³⁷). Information should be precise, structured, and available in one place (not fragmented across different information channels).

Most respondents in the survey (72%) note that the most useful information is received from business partners/contacts. One respondent notes, “Websites provide a lot of outdated, inaccurate, and sometimes even contradictory information. [A best practice is that] sometimes a company in the sending country provides very detailed instructions concerning visa regime, salaries, working time, etc., for posted workers.”

When asked if access to information regarding the posting of workers is a challenge for their company to participate in the posting, about 40% of the survey respondents note that it is. However, they also mention that challenges of obtaining information when posting to certain countries are more significant as the accessibility and quality of country-specific information provided by the Slovenian information channels, as well as other Member States, differ considerably.

Posting Companies’ Challenges and Needs

Our findings show that the challenges and needs of the companies often vary according to the size of the company and their resources and experience with the posting of workers. However, the main challenge for all is finding detailed, credible sector-specific, and country-specific information regarding the applicable rules and regulations in a language they understand.

The survey respondents report that the factors which most frequently create challenges are understanding the information provided (100%), time

³⁷ Certificate authorising exemption from tax on construction services provided in Germany.

and effort required (96%), and language (72%). One survey respondent notes that going through complex rules and regulations in place in different countries requires significant effort. Nevertheless, if the rules are only available in a language in which one is not proficient, this task is nearly impossible and can deter companies from posting altogether.

About half of the survey respondents who post workers abroad think it is difficult or fairly difficult to determine the applicable wage and working conditions for posted workers. However, most acknowledge that this depends on the country to which the workers are posted. It is easier to get information for some countries than for others. One interviewee notes that hiring a consultant is an absolute must for some countries. The problem is especially pressing when countries do not provide instructions and administrative forms in English, which makes it difficult for employers to tackle without assistance. Survey participants note that the three main elements that would help companies with compliance concerning the applicable wage and working conditions for posted workers are (1) improved clarity and quality of information, (2) improved support and guidance in determining the wage and working conditions that should be respected, and (3) improved availability and accessibility of information.

The interviewees state that especially smaller companies and the self-employed with less financial resources to outsource legal, accounting, or advisory services and/or without the support provided by legal or human resources (HR) departments often resort to acquiring information via phone, hoping to receive all required information from one contact source. However, national and regional authorities that provide information free of charge are also only specialised in specific issues concerning the posting of workers. For example, a representative of the authority that issues PDs A1 can answer the question of the possibility of posting under different articles of Regulation No 883/2004 on the coordination of social security systems.³⁸ However, they cannot answer any questions about the regulations and administrative procedures regarding social security provisions in the destination countries. Representatives of the tax administration can provide

³⁸ Posting undertakings often prefer to post workers under Article 13 of Regulation (EC) No 883/2004 because that exempts them from the strict provisions and exclusionary criteria set by the Transnational Provision of Services Act (Official Gazette No. 10/17, 119/21 and 40/23), which only regulates posting of workers under Article 12.

information about payroll accounting but are not familiar with collective agreements, parity funds, or minimum wages in destination countries. Most information from one source can be obtained from the representatives of employers' associations that provide services to their members. However, they often struggle to obtain specific information on time, especially if the posting is done to less popular destinations.

The interviewees agree that detailed sector-specific and country-specific information relevant to individual companies is often difficult to obtain and requires significant effort and perseverance. Larger companies with their own HR, legal, and accounting services that attended (albeit sporadically organised and therefore not readily available) educational seminars are more informed and need less information from the competent national authorities and social partners than smaller companies or the self-employed.³⁹ They have also created a network of people to contact (in Slovenia and abroad) in case of any ambiguities and, therefore, can readily identify contact persons to clear up any uncertainties.

The interviewee representing a large company states that those companies that significantly contribute to the Slovenian economy are also usually involved in the social dialogue directly or through their employers' association representatives. Therefore, they are informed about any new regulations, upcoming legislation, or changes in bureaucratic procedures before they come into force. Larger companies can object to or lobby for amendments based on their experience with the posting and good financial standing. This is a major advantage point compared to lower-income companies and the self-employed. Bigger companies or companies with more financial resources can also employ competent supporting staff or, alternatively, buy information or services offering accounting and legal assistance, saving them the time and hassle of figuring out how to come about it themselves. Outsourcing specialised services from other competent

³⁹ This finding is in line with the research results from some other countries included in the project. For example, a Belgian interviewee notes, "Small businesses get lost in all administrative obligations. Large companies with an HR department find the information or find someone who can provide them with the information. Small companies are 'illiterate' in this regard." ... "80% are 'simple' entrepreneurs who do not know how to comply with laws even in their own country" (De Wispelaere & De Smedt, this volume).

firms, in theory, means that any inadvertent breaches of legislation would be avoided.⁴⁰

The financial ability to purchase foreign advising services is also an important advantage. According to our interviewees, hiring advisers in the destination countries is most beneficial, especially in cases where legislation is not easily accessible or is in a language unfamiliar to posting undertakings. In order to ensure compliance with all country-specific regulations and avoid being fined due to a lack of knowledge and awareness about legal and administrative specificities, it is, therefore, useful to obtain advice from competent foreign advising agencies. Another advantage of such outsourcing is the fact that information is supplied immediately or in a very short period. A representative of the employers' associations confirms that specialised foreign private agencies often outdo them in terms of the timely provision of information. The interviewees agree that smaller companies with limited financial resources and the self-employed are less likely to be able to afford the cost of foreign advisors. One of them notes that due to a lack of readily available comprehensive information, they may, in some cases, resort to finding information on social media networks, such as Facebook groups, where company owners or the self-employed post their experience with the posting of workers and offer advice on the posting of workers. This raises the issue of credibility and lack of accountability of the source, as information may not be correct or updated, and the source cannot be held accountable for any violations of the law of the information users. Some construction company owners, including those for whom Slovenian is not their first language, tend to reach out to their colleagues and/or fellow nationals for advice based on their personal experience.

Establishing whether the information is credible can be challenging for some posting undertakings. Many companies without previous posting experience and prior knowledge about regulations and procedures may not recognise whether the information is from a credible source and whether it

40 Danaj et al. (2021) also note that in order to abide by all the regulations in both sending and receiving countries, companies need to educate themselves and/or employ specialised services provided by legal, accounting, or consultancy companies. However, they argue that outsourcing can be very costly and unattainable for smaller companies or the self-employed, and, in some cases, this can serve as a deterrent to pursue the posting of workers.

is correct and complete. A representative of a large company also emphasises this problem in the context of their subcontracting, i.e., hiring the services of different companies that will themselves post workers to provide services abroad. Namely, their subcontractors, mostly small companies, might not always be aware of country-specific regulations and, thus, may not comply with the rules. Therefore, the responsibility for maintaining a good reputation abroad also includes informing the subcontractors about the applicable rules and regulations by the companies that outsource them.

Challenges of Information Providers in Ensuring Provision and Access to Information

Information providers' main source of information is the national legislation. Most are already involved in the policymaking processes as social partners and are, therefore, well-informed about the legal provisions and bureaucratic procedures. They also frequently attend meetings with the representatives from the Ministry of Labour, Family, Social Affairs and Equal Opportunities to familiarise themselves with any new provisions or resolve ambiguities. Based on their knowledge, they prepare information for their users on their websites and provide contact details (e-mail address, phone number) for further information. Employers' associations, in particular, also tend to organise seminars for their members whenever there is a change in the legislation that affects the posting of workers. The latter also make an effort to provide seminars on the rules and regulations in countries to which workers are most often posted, such as Austria and Germany.

In most cases, the companies inquire mostly about specific rules, i.e., what documentation is required to obtain a PD A1, how long it takes to receive the forms, whether a PD A1 is required even if providing services that only take a couple of hours, how to calculate social security contributions for posted workers.⁴¹ Answering questions about Slovenian legislation is

41 Other frequently asked questions are: When does a travel order suffice for a work trip, and in which cases do they need to apply for a PD A1? What are the conditions for posting under Article 13 of the Basic Regulation? Is their company eligible to post

much less challenging than responding to requests for information about the rules, regulations, and bureaucratic procedures in other Member States. In order to obtain country-specific information, national services from Slovenia reach out to the relevant Ministries and employers' associations or send inquiries via the IMI system. Employers' associations reach out to their partners, branch offices, or economic advisers abroad. However, finding information is a very time-consuming task that does not always bear fruit. In many cases, the user undertakings benefit more from the foreign-hired expert services that provide verified information quickly but for a fee. The information providers often receive complex inquiries via e-mail or phone, but they can only provide information on a specific issue that is within their competence. The user must then contact several other services to obtain the answer, which is not an efficient and user-friendly way of providing information.

In order to improve access to information for posting undertakings, the national authorities, therefore, need to address the issue of accessibility and fragmentation of information, which is especially troublesome for smaller construction companies and/or those with less financial or HR resources required to access and correctly interpret relevant information. A national contact point for posting undertakings would be helpful in this respect, providing reliable and complete information via e-mail and phone.⁴² The national contact point should be able to provide sector-specific and country-specific information. That would contribute to eliminating the

workers, and how to calculate social security contributions when a worker is posted to several different countries in one month and under different Articles of the Basic Regulation? These questions mostly arise from the complex administrative procedures and rules stated in the applicable Slovenian legislation on the posting of workers, i.e., Transnational Provision of Services Act (Official Gazette No. 10/17, 119/21 and 40/23), which regulates the posting of workers under Article 12, and the Pension and Disability Insurance Act (ZPIZ-2, Article 144, paragraph 4), which states that social security contributions for workers posted under Article 12 of the Basic Regulation are not to be calculated based on the actual wage earned but based on the wage they would have earned in Slovenia for comparable work.

42 According to the interviewees, providing information via phone is considered to be especially useful and efficient, as many users prefer to rely on verbal assistance. Inquiries over the phone would enable them to explain their inquiry in detail, and the provider would be able to ask additional questions in order to identify the root of the problem. One respondent notes that “getting information from a real person by making a phone call” is an example of best practice.

informal exchange of information (which can be false or outdated), often resulting from the lack of resources to employ or outsource competent staff or services.

Some interviewees acknowledge the importance of regular updates of the content on websites. This comment is about providing information as well as visual and structural upgrades to attract users and provide a user-friendly experience. Furthermore, we argue that *users* should systematically evaluate existing websites, which is key to successful updates. Smaller companies, in particular, should be invited to systematically evaluate whether the information is useful and easy to understand and does, therefore, reduce the need to outsource specialised agencies for assistance with interpreting the applicable rules and regulations.

Most interviewees agreed that purchasing information from foreign private consulting companies regarding the posting of workers in other Member States is considered a very efficient and speedy way of obtaining credible information. However, they note that the problem of affordability is especially pressing for smaller, lower-income companies. Based on the data collected, we argue that frequently scheduled and free-of-charge educational seminars provided by employers' associations or other social partners may contribute to the solution. The seminars would need to be organised regularly, i.e., every few months on a fixed date, not sporadically and depending on the availability of funding, either in person or online. The seminars would need to offer the users a chance to ask specific questions relevant to the employers' unique situations and challenges.

The respondents also note that a highly functioning and regularly updated EU portal with country-specific information should be created. The portal should provide detailed information on all relevant rules and regulations in the same format concerning posting in all Member States. It should not merely provide links to the single national websites but comprehensive information on important issues, such as collective agreements in place in all Member States and a wage calculator. A link to the portal should be sent automatically to all PD A1 applicants.

Concluding Remarks

The findings presented in this chapter are in line with the report of the European Labour Authority concerning information provision, enforcement, social security coordination, and cooperation between Member States about the posting of workers in the EU construction sector (ELA, 2023), which identifies several shortcomings in communicating the relevant information on the posting of workers. These include difficult legal wording, complex language that is not easy to read, lack of translations into relevant languages, and multiple inconsistent information sources. Moreover, they also note that information needs are the biggest from small and medium enterprises that “do not have the capacities or resources to employ or hire legal experts to explain the rules and obligations to them” (2023: 28).

We find that the most pressing challenges emerging from all three sets of data collection, i.e., the mapping of the information channels, interviews with stakeholders, and the employers’ survey, are fragmentation of data across different information channels, the time-consuming process of identifying and collecting comprehensive information about specific regulations in place in Slovenia, and finding credible country-specific and sector-specific information about rules and regulations in other Member States. The research shows that the challenges of posting undertakings seem to vary according to the size of the company, their resources, and their experience with the posting of workers. Larger companies with their own HR, legal, and accounting services are more informed and need less information from the competent national authorities and social partners than smaller companies or the self-employed. Companies with more financial resources also fare better when needing country-specific information, as they can purchase foreign advising services that provide relevant information to ensure compliance with various national legislations.

Access to reliable information, i.e., comprehensive, relevant, trusted, and updated information (González Martínez, 2008), and the capacity to correctly process the supplied information is crucial for making informed decisions. That is why companies must receive clear, unambiguous instructions on how to proceed when posting workers to provide services abroad. Although Slovenian users often resort to websites for information

(albeit not necessarily the single official national website on posting), they consider in-person information provision via help desks, educational seminars, and training sessions the most effective. Efforts should, therefore, be made to develop a sector-specific and country-specific online information channel with all relevant information concerning terms and conditions of employment in different Member States and provide in-person sessions in a language that the information users understand.

Additional information

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CONCLUSIONS AND RECOMMENDATIONS

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This book has provided an in-depth study of the experiences and challenges of posting and receiving construction companies when accessing information on the posting of workers. It systematically analyses the information landscape from the perspectives of the information providers and the companies. We evaluated existing channels of information based on the information requirements stipulated in the Enforcement Directive 2014/67/EU for public authorities in the EU Member States, namely, to ensure access to information for both posted workers and their employers regarding the terms and conditions of employment during posting. The Enforcement Directive mandates the provision of information through official single national websites and other channels by public authorities and in collaboration with social partners. The Directive also emphasises the necessity for Member States to provide comprehensive, up-to-date, and easily accessible information covering various aspects of posting, such as legal requirements, administrative procedures, and relevant contacts available in several languages. Information availability and accessibility and the comprehensiveness of the coverage are deemed essential for facilitating compliance with posting regulations and protection of labour standards. Building on the provisions of the Enforcement Directive, the amended Posting of Workers Directive (Directive 2018/957/EU) further underscores the importance of information requirements on the transparency and accessibility of information related to compliance with posting regulations and protecting the rights of posted workers within the European Union (Article 3).

Our research on access to information on the posting of workers for construction companies across the five case countries, namely, Austria, Belgium, Italy, Slovakia, and Slovenia, reveals shared challenges common to all and nuanced dynamics depending on the national contexts. While

each country has its own landscape of information dissemination channels, certain commonalities emerge, such as the dominance of online channels in information provision, the fragmentation of information on posting across multiple channels, the persistent issue of language barriers, and the need for enhanced accessibility and clarity in disseminating information on posting.

Across all the examined countries, public institutions, private entities, and social partners provide a plethora of information channels encompassing online channels, in-person communication options, training sessions held for companies, and consultancy services, reflecting efforts to ensure widespread access to information on posting. The five countries differ in the distribution of information provision through various actors. Some countries rely more heavily on public authorities, others prioritise engagement with social partners or private entities. For instance, public authorities and social partners are the primary information providers in Austria, Belgium, and Slovenia. In Italy, a mix of public and private actors offer information on posting, whereas in Slovakia, private actors represent the largest share of information providers on posting. Companies in all countries have reported using multiple channels to gather information on posting. These findings underscore the complexity of the information landscape and the necessity for a multifaceted approach to address diverse informational needs.

The posting characteristics in each country can partially explain the varied landscape of information channels across the five countries. Countries like Austria and Belgium are predominantly receiving countries, so more attention and investment has been made to provide information to companies posting their workers to these countries. Italy has a mixed profile as both a sending and a receiving country, whereas Slovakia and Slovenia are predominantly sending countries. For sending countries, the question remains whether they should also provide comprehensive information to domestic companies engaging in outgoing posting activity. This would mean providing information on both sending and receiving country specifics. Sending countries could also expect receiving countries to fulfil this requirement and focus on their own nationally relevant elements, such as the issuing of portable documents and taxation.

Our results from the analysis of the extant landscape of posting information provision also suggest that the level of political ownership by national policymakers over posting-related issues varies, with some countries demonstrating stronger institutional coordination and oversight than others. For example, a fragmented approach to posting issues in Slovakia and Italy hampers effective information provision through public authorities. This underscores the need for a more cohesive institutional framework and greater political commitment to addressing posting challenges. Despite whether a Member State has more incoming or outgoing postings, many countries, including most of the five countries studied here, have seen growing numbers of sent and received posted workers in recent years (De Wispelaere et al., 2020), which raises the need for dedicating more institutional attention to the provision of information on posting for both posting and receiving companies in each Member State.

Regarding the types of information channels available, the findings in all five countries show that online information channels dominate the means through which the various actors provide information on posting. Their importance and usage have increased since the COVID-19 pandemic, when many procedures were transferred online in response to public health concerns. These online channels also serve as repositories of information on posting regulations, procedures, and requirements.

The official single national websites dedicated to posting play a pivotal role in disseminating information, yet their structure and level of comprehensiveness also vary even among the five case countries studied here (see also ELA, 2023; De Wispelaere & De Smedt, 2023). Not fully satisfying the stipulations of the relevant Directive, Slovakia uses a subpage of the Labour Inspectorate website to provide a single national website. Italy has a composite of various public institutional pages that serve the role of the website on posting. This means that despite the single national websites' key role as posting information hubs in all five countries, also confirmed by the survey results with the companies involved in posting, the extent to which they are designed to fulfil the requirements for information provision differs in each EU Member State. Furthermore, even though the EU regulations see a clear and primary role for the official single national websites, our survey showed that about half of the respondents were unaware of the official

single national websites (De Smedt et al., 2023). This finding indicates that, in addition to improvements in the design and content of these single national websites, more effort should be made for these channels to reach their targeted audiences through information campaigns and stronger collaboration among the various stakeholders involved in information provision.

Despite the lesser availability and, thus, use of offline channels, i.e., through direct communication during office hours or phone inquiries as well as seminars and other information sessions, such offline channels are still offered by several institutions and considered important resources by construction companies that have used them. While companies highlight the importance of in-person information channels, their availability, frequency and effectiveness vary across the five countries. In-person information is particularly considered useful by smaller companies. These channels allow for detailed case-specific provision and reception of information on complex individual cases in an interactive format. Therefore, the continued provision of information through offline channels remains relevant.

Concentrating on the perspective of companies, our case study results also showed the relevance of company size in understanding construction companies' practices and challenges in searching and using information on posting. Larger companies with more resources, such as those with their own HR, legal, and accounting services, tend to be more informed and rely less on external sources for information. They may also have the capacity to employ or hire external legal experts to assist them in understanding the rules and obligations related to posting. On the other hand, smaller companies face greater challenges in accessing and understanding the relevant information due to the lack of specialised staff hired in their companies for such specific tasks. As a result, they may struggle to navigate the complex legal and administrative procedures associated with the posting of workers. Therefore, this creates a discrepancy among the SMEs between those with the financial resources to outsource the information on posting and how to apply such rules correctly to engage in posting activity and those who do not (cf. Vah Jevšnik & Toplak, 2023). Likewise, language barriers pose a significant challenge, especially for SMEs, which may find it more difficult to access information provided in languages other than their own. The

survey results show that larger companies rely more on online channels, whereas SMEs favour in-person information channels (De Smedt et al., 2023). Understanding the different practices and challenges faced by companies of different sizes indicates the need for tailored institutional practices to make posting information available and accessible to all company sizes.

Another aspect revealed by the case studies is the fragmentation of information across various channels, a common challenge encountered by construction companies in all five EU Member States. The multitude of information channels with partial information, the under-coverage of certain themes coupled with varying formats of distribution of information and levels of detail complicates the process of accessing accurate and up-to-date information on posting regulations, necessitating efforts to streamline information dissemination channels (Kayran et al., 2024; Moran & Mýtna Kureková, 2024). In addition, the uneven language availability of information on posting represents a significant hurdle for construction companies seeking information on posting regulations across all five EU countries. Therefore, concerns persist in all five countries regarding the comprehensiveness and accessibility of all available online channels, underscoring the necessity for continuous improvement and optimisation (see also ELA, 2023; European Commission, 2019). Apart from a more holistic approach to information provision, having the information concentrated in one platform, where the links between different countries, thematic policy and regulation areas, and stakeholders are provided, would enhance the accessibility of the available information (De Wispelaere & De Smedt, 2023).

In addition, both the Posting and the Enforcement Directives encourage Member States' institutions to collaborate with social partners in disseminating information on posting. However, our research shows that the involvement of employer associations and chambers of commerce in providing information and support to construction companies looks different across our cases. While they play a significant role in Belgium and Austria, their engagement is less pronounced in Italy and Slovakia. In Slovenia, efforts to involve employers' organisations in information provision are acknowledged as beneficial but require further development. While the role of the trade unions in providing information on posting, especially from the perspective of the workers involved, was not the direct focus of

this study, their engagement in information provision is also recognised. Therefore, by leveraging the expertise and resources of social partners, Member States can enhance the effectiveness of their information provision efforts and ensure that the needs of both employers and workers are met.

Drawing from the conclusions and recommendations of the country case studies, this book advances the following recommendations for the improvement of information provision, availability, accessibility, and comprehensiveness:

Political Commitment and Institutional Coordination: Stronger political ownership and institutional coordination are crucial for improving information provision on posting. In some countries, this necessitates establishing dedicated coordinating bodies or task forces responsible for overseeing information provision efforts and ensuring alignment with broader policy objectives at the national and EU levels. A centralised coordination mechanism for posting-related information can streamline access and minimise fragmentation.

Streamlining and continuously updating key information channels: Efforts should be made to streamline public information channels and reduce fragmentation. This could be achieved by providing information through a single authoritative source, such as the official single national posting website, while ensuring coordination among relevant stakeholders' channels. Single national posting websites and other public channels should be continually updated and optimised for user-friendliness. This includes providing comprehensive information in a clear and accessible format, incorporating visuals and multimedia elements where appropriate, and regularly updating content to reflect regulation changes.

Improving online channels and digital tools: Online channels are already the dominant means of information provision and the main way companies receive information. Efforts should be made to complement the one-way provision of information with diverse formats, such as infographics, audio and video, as well as digital tools, such as wage calculators and interactive real-time communication tools.

Addressing language barriers: Addressing language barriers should be prioritised across all EU countries. This could entail providing translations of information materials into relevant languages, including English and languages commonly spoken by posting companies and workers. Additionally, efforts should focus on ensuring consistency in terminology and clarity of language across different language versions to enhance understanding.

Standardisation of information and a holistic approach to information provision: Establishing common standards for information provision, particularly on national websites across countries in terms of items and form of presentation in a user-friendly format, can promote consistency and clarity and facilitate the navigation of these platforms by companies and workers alike. At the same time, these channels should cover all relevant posting aspects, spanning aspects of labour, occupational safety and health, wages, social security, taxation, migration, appeal, and redress.

Strengthening in-person channels: Increasing the availability of in-person information channels and the frequency of information sessions and seminars can improve engagement and comprehension, particularly for smaller companies with limited resources. Collaboration with social partners can enhance the effectiveness of these channels.

Fostering collaboration with social partners: Closer collaboration among public authorities and social partners can enhance the effectiveness of information provision efforts. This may involve organising joint information sessions, developing sector-specific guides in consultation with relevant stakeholders, and leveraging the expertise of social partners to address the specific challenges that construction companies face.

Capacity building among companies active in posting: Investing in capacity-building initiatives for users, especially small and medium-sized enterprises, can enhance awareness and understanding of posting regulations. This may involve training programs, workshops, and online resources tailored to different stakeholder groups and user audiences.

Strengthening transnational cooperation: Promoting transnational cooperation among Member States can foster knowledge sharing and best practice exchange. This can involve aligning information provision strategies and collaborating on developing common standards and resources. Existing structures, such as ELA's Working Group on Information, can work together to design guidelines for Member States in which thematic areas and templates for information provision are suggested. Compendiums of best practices among Member States could also be made available.

Collecting information users' feedback to improve the quality of information provision: Collecting feedback from users, companies and workers involved in posting through dedicated surveys or, for online channels, user satisfaction feedback forms can improve information providers' understanding of the needs of these users and therefore guide their efforts to improve information provision.

In conclusion, addressing the challenges of accessing information on the posting of workers requires a coordinated and multifaceted approach. By implementing these recommendations, countries can enhance information provision, thus ultimately enhancing compliance with labour and social standards, facilitating cross-border labour mobility, and promoting more inclusive and transparent posting practices within the European Union.

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ANNEX 1: INTERVIEW PROTOCOL

Introductory protocol

Welcome: Thank you for agreeing to do this interview. My name is [XY], and I'll be talking with you today.

Inform about the research and explain purpose of the interview: Our research project on how transnational posting undertakings and user undertakings find and use information in their interaction with national institutions and how that affects their overall performance in terms of the correct application of the posting rules and the protection of labour and social standards. The study focuses on the specific case of the construction sector as the main sector where posting occurs, and where both larger companies and SMEs as well as self-employed are active.

The purpose of this interview today is to learn more about your experiences with and recommendations related to access and use of publicly available information for posting construction companies and user undertakings. The interview will last about 45-60 minutes.

Obtain informed consent:

[Ask interviewee to read and sign the informed consent form] Participation in this interview is voluntary and everything you tell us will be confidential. We won't connect your name with anything you say. Do you have any questions regarding the consent form?

To facilitate our notetaking, we would like to audio tape our conversations today. For your information, only researchers on the project will have access to the tapes. The information provided will be used only for the purposes of the study and the related research products that will be derived from it. Is it OK if I audio tape this interview today?

If yes: Thank you! Please let me know if at any point you want me to turn off the recorder or keep something you said off the record. You can stop the interview at any time for any reason.

If no: Thank you for letting me know. I will only take notes of our conversation.

[FOR TELEPHONE/TELECONFERENCE: Participant will be sent an informed consent form before the interview. At start of interview, ask if participant has read the consent form and if she/he has any questions about the consent form and if he or she agrees to be interviewed and audiotaped]

Before we start the interview, do you have any questions? [Discuss questions] If any questions (or other questions) arise at any point during this interview you can feel free to ask them at any time. Let me know if during the interview there are any questions that you would rather not answer. Please remember that we want to know what you think and that there are no right or wrong answers.

Introduction/Background

I'd like to begin by asking you some questions about your current job.

Probe: What is your position at [institution/organization]? What are your major responsibilities in your current position? How long have you been with [institution/organization]?

Can you tell me a bit about your work and experience as it relates to the posting of workers?

Probe: particularly for aspects that relate to information dissemination for posting/user undertakings.

Now, let's talk about your organisation.

What is your organisation's experience with engaging posting/user undertakings (or with the topic of posting of workers in general)?

- What prompted your organisation to get involved in this issue?
- Specifically, what activities have you undertaken?

Information provided to posting/user undertakings: content, tools, sources, intra-institutional exchange, dissemination

1 What information have you created and/or delivered?

1.1 What types of content do (did) you disseminate?

- Probes: working time, OSH, minimum wages and CBA, registration for social insurance and contributions, work permits, taxation, over time and other additional wage supplements, leave and holidays, facilitating information targeted at companies, sanctions and enforcement in case of non-compliance, redress, appeal and compensation.

1.2 What tools or resources have you used?

- Probes: online channels (webpages, online workshops, tutorial, videos), offline tools (booklets, brochures, regular consultation hours)

1.3 What are your sources for the information about posting provided by your organization? Or where did you go to look for information?

1.4 Do you exchange with other national or EU institutions/organizations on posting information? (in what form/frequency, with whom)

1.5 At what frequency do you update/provide/deliver information on the topic?

2 How do (did) you disseminate information to posting/user undertakings?

2.1 What channel(s) or mode of delivering information do (did) you use? (Online and/or offline channels e.g. website, flyers, brochures, guides, trainings, workshops, videos etc.)

2.2 How do (did) you engage posting/user undertakings? Do you provide any support with interpreting/decoding the provided information?

- Probe: Is there a contact email or contact number in case of questions? Do you have office hours? Do you provide content with answers to Frequently Asked Questions?

Monitoring and enforcement of the provision of information

3 *What has been the reaction to your activities/efforts?*

3.1 Do you map how well a particular information source/channel is able to reach the respective target group (e.g. web page view counts, number of participants at an event)?

4 *How do you ensure that your information reaches respective employers? Do you take any specific measures? Which ones? Do they work?*

4.1 Do (did) this differ for different types of posting employers/user undertakings?

4.2 If so, what are the different types, and how do their information needs differ?

5 *Was there anything you did that you thought worked well?*

5.1 Among the topics that you have addressed or considered addressing, what types/aspects of information seem to resonate most with posting employers/user undertakings?

5.2 What aspects resonate least?

5.3 What do you think are the priority topics and content areas for posting/user undertakings?

- With what topics do they need the most assistance?

- Where can information affect the most change?

6 *What, if anything, would you do differently?*

Gaps and Challenges in the provision of information

7 *In your view, what are the pertaining information gaps that posting companies continue to face? What is the reason for these information gaps?*

7.1 What opportunities for information dissemination/engagement have not traditionally been used?

7.2 Are there target audiences that have been ignored?

7.3 Are there any differences on information gaps between posting undertakings and user undertakings?

8 *What barriers/challenges would you say posting/user undertakings face when accessing information on the posting of workers?*

- Probe: this could in more general terms, or the information provided by the specific institution/organization.

9 *What challenges are there to providing information to posting/user undertaking?*

- Probe: this could in general, or about the specific institution/organization.

Best practices and recommendations

10 What are the best ways to inform/engage posting/user undertakings?

10.1 Based on your knowledge/experience which is the organization that currently best delivers information on posting? What best practices do they have?

10.3.1 What facilitates those best practices?

10.3.2 What are some challenges to those best practices?

10.1 What are the best way(s) to disseminate information?

- Probe: perhaps they can elaborate on what they consider the best way.
- Probe: perhaps they can mention any best practices in making information available and accessible for posting and user undertakings?

10.1.1 How feasible is this/are these?

10.1.2 What assistance would be needed to implement such tools and resources? What are the best ways to sustain those efforts?

11 Can you recommend any particular print documents or Web resources that your or other institutions/organizations have produced that we should review?

Closing the interview

12 What is the most important message that you want us to take away from this interview?

12.1 Is there anything else that you would like to add about any of the topics that we've discussed or other areas that we didn't discuss but you think are important?

12.2 If you know of any research, tools, or resources that may be useful to include please send them to me.

Thank you for your time and participation in this interview. The information that you provided to us will be very helpful in this project.