

# 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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## 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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