



# KPMG Guide to the Posting of Workers 2021



**KPMG in Romania**

**2021**

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# Foreword

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**The year 2020 pulled the break on international mobility as we knew it and, while 2021 is starting to show a slow come back in terms of mobility, the number of mobile employees is still low compared to previous years.**

**2020 also brought new requirements in terms of international postings, as EU member states had to implement Directive 2018/957/EU into their domestic legislation.**

## General overview

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**This part of the KPMG Guide on Posting of Workers aims to give companies a clear view on rules on the posting of workers, as they have been revised with the adoption of Directive 2018/957/EU<sup>1</sup>.**

**This understanding is essential to ensure that the rules are correctly and consistently applied by employers throughout the EU.**

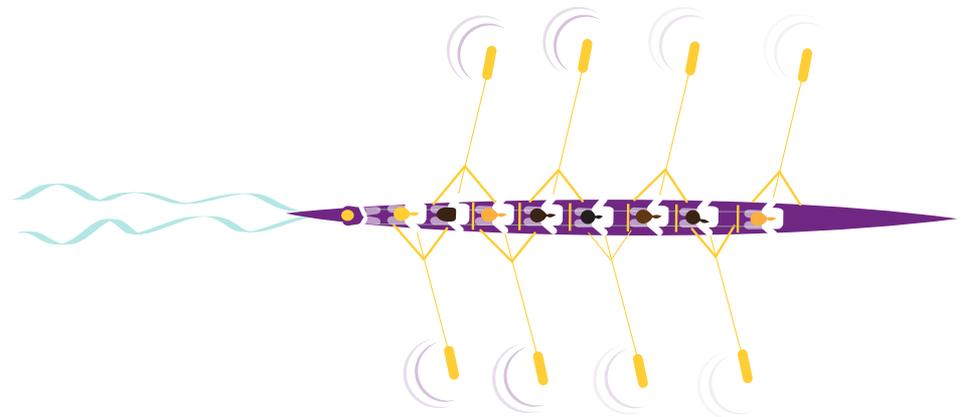
Consequently, even in a year of little to no mobility, international postings are still a hot topic, and this period of “tranquility” may offer employers the time they need to reassess their global mobility programmes, analyze potential risks and design processes and procedures to ensure compliance with new regulations.

The main purpose of this guide is to help employers understand the general principles around posting of workers, as well as the changes made to the legislation governing postings, so that they will be better able to properly plan

the activity of their workforce.

Given the complexity and the multitude of issues affecting international postings, we recommend that companies posting employees abroad should always be up to date with any legislative changes occurring in the Member States where their employees are carrying out activity, and seek expert guidance on labour law legislation.

We hope you will derive both interest and benefit from reading this year’s edition of the KPMG Guide on Posting of Workers.



### What is a posted worker?

A **posted worker** is an employee who is sent by his/her employer to carry out a service in another EU Member State **on a temporary basis, in the context of a contract of services, an intra-group posting or a hiring out through a temporary agency.**

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<sup>1</sup> 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.

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## What are the rights of a posted worker?

**Directive 96/71/EC<sup>2</sup>, as amended by Directive 2018/957/EU, lists the terms and conditions of employment of the host Member State that must be granted to posted workers:**

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<sup>2</sup> 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').



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## What does “remuneration” mean?

**Directive 2018/957/EU does not define “remuneration”. However, it specifies that remuneration, as far as posted workers are concerned, includes “all the constituent elements of remuneration rendered mandatory by national law (...) or by collective agreements which (...) have been declared universally applicable”.**

- ① Maximum work periods and minimum rest periods.
- ② Minimum paid annual leave.
- ③ Remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes – **Directive 2018/957/EU introduced the concept of “remuneration”, replacing the concept of “minimum rates of pay”**.
- ④ The conditions for hiring-out of workers, in particular the supply of workers by temporary employment undertakings.
- ⑤ Health, safety and hygiene at work.
- ⑥ Protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people.
- ⑦ Equality of treatment between men and women and other provisions on non-discrimination.
- ⑧ The conditions for workers’ accommodation where provided by the employer to workers away from their regular place of work – **this is a new condition introduced by Directive 2018/957/EU.**
- ⑨ Allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons.

Directive 2018/957/EU provides that the concept of remuneration is determined at the appropriate level i.e. by the national law and/or practice of the host Member State. The Directive does not therefore attempt to determine the notion of remuneration or to define any of its constituent elements.

The remuneration, with its different elements, of a worker of the host Member State may be set by rules of a

different nature: legislative and other regulatory provisions, different types of collective agreements (national, sectoral, local, and at the level of the undertaking), and the individual employment contract agreed between employer and employee.

**For posted workers, only the elements of remuneration mandatorily applicable to all workers in the geographical area or sector are to be considered as remuneration.** The elements which are

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## What does “remuneration” mean?



considered mandatorily applicable are those which are stated by national law or by collective agreements made universally applicable or that otherwise apply to all local workers in the geographical area or sector concerned.

**The host Member State is not required to determine the actual remuneration to be paid.** Member States are required to provide the information on the terms and conditions of employment, including the constituent elements of remuneration to be applied to workers posted to their territory. **But it remains the responsibility of the employer to establish in each individual case how much a posted worker must be paid, based on this information.**

Remuneration includes any allowances specific to the posting unless they are paid as reimbursement or compensation of expenditure on travel, board and lodging.

**Reimbursement or compensation of expenditure on travel, board and lodging are not considered as remuneration and therefore not taken into account for the comparison.** If it does not appear clearly which elements of the posting allowance are paid as reimbursement of expenditure actually incurred because of the posting, then the entire allowance is considered to be paid as reimbursement of expenditure, not remuneration.

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## Are there any specific registration requirements in the case of posted workers?

The Host Member State is entitled to require the Home Employer to take the following administrative measures, before the posting:



**1** To make a simple declaration to the appropriate national authorities, at the latest at the commencement of the provision of services, containing the relevant information needed to allow verification of the details of the posting at the workplace, including:

- ① The identity of the service provider.
- ② The anticipated number of clearly identifiable posted workers.
- ③ The liaison person and the contact person.
- ④ The anticipated duration, as well as the envisaged beginning and end date of the posting.
- ⑤ The address(es) of the workplace and
- ⑥ The nature of the services justifying the posting.

Most Member States have put in place an electronic system for this declaration.

**2** To designate a person to liaise with the appropriate authorities in the host Member State.

**3** To designate a contact person who can act as a representative through whom the relevant social partners may seek to engage the service provider to enter into collective bargaining within the host Member State.

Host Member States are entitled to put in place other administrative requirements provided they are justified and proportionate.

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## Do the same rules apply to short term postings?

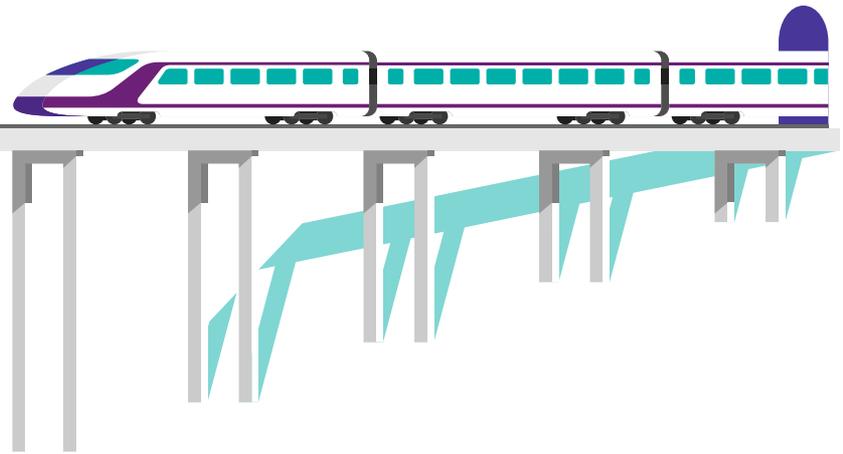
Directive 96/71/EC and Directive 2018/957/EU apply to all postings, irrespective of their duration. However, some provisions of the Directive are not applicable to a short-term posting or allow host Member States not to apply their rules to postings of short duration.

First of all, there is a **mandatory exception** in cases of initial assembly and/or first installation of goods when the posting does not exceed eight days.

In these cases, the rules of the Directive on minimum paid annual leave and remuneration do not apply. (The exception does not apply to the construction sector).

Secondly, there are options for host Member States **not to apply some of the rules** when the length of the posting does not exceed one month.

Moreover, some host Member States have exempted short-term postings or other types of postings from certain requirements that they impose, in particular from the requirement to make the declaration prior to the posting.



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## Do the rules apply to business travelers?

Workers who are sent temporarily to work in another Member State, **but do not provide services** there, are not posted workers.

This is the case, for example, for workers on business trips (when no service is provided), and those attending conferences, meetings, fairs, undertaking training etc.

These workers are not covered by the Posting of Workers Directives and, therefore, the rules on minimum wages or on mandatory registration procedures do not apply to them.



This part of the KPMG Guide to the Posting of Workers provides an overview of the requirements related to posting of workers within the European Union, European Economic Area and Switzerland (hereafter referred to as “the EU, EEA Member States and Switzerland” or “the Member States”).

# W ain findings



You will find in this section a summary of the countries which have implemented Directive 2018/957/EU to date and those which will not implement the Directive at all, for various reasons, which should help you easily assess your obligations in each host country.

In this section, we detail our main findings with respect to remuneration used across the EU and EEA Member States and Switzerland (including the UK).

Even though Directive 2018/957/EU replaced the concept of “minimum rates of pay” with the concept of “remuneration”, minimum wages are still relevant, because in some countries “remuneration” might end up being the equivalent of the current “minimum rates of pay”.

Registration requirements are another issue that raises concerns for employers and therefore in this section you will find an overview of the methods of registration available in each of the Member States to meet this obligation.

Also, following the implementation of Directive 2018/957/EU, registration

requirements may be even more complex as a separation is made between short term (less than 12 months) and long term (more than 12 months) assignments. Detailed information can be found in the Country by Country section.

The information presented in this report is based upon a brief survey covering issues relating to minimum wage requirements and compliance requirements with respect to postings to 30 countries within the European Union, European Economic Area and Switzerland (including the UK), valid as at March 2021.

This information is of a general nature and it is not meant to cover all situations which might occur.

It is consequently recommended that, prior to posting an employee to a Member State, the employer should cross-check the information herein with specialized consultants or lawyers in the relevant country, including making a check as to whether there have been any recent changes to the domestic legislation of the Member State concerned

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## What is the current status of implementation of Directive 2018/957/EU?

Directive (EU) 2018/957 (hereafter “the Directive”) aims to facilitate the transnational provision of services, while achieving better protection for mobile workers.

The Directive was published in the Official Journal of the European Union on 9 July 2018 and came into effect on 29 July 2018.

Following this date, all EU member states were required to transpose the Directive into their national legislation by 30 July 2020, in order to help ensure fair competition and respect for the rights of posted workers wherever they may be in the EU.

To date, most EU countries have already transposed Directive (EU) 2018/957 into their local legislation.

However, there are also countries where the new provisions have not been adopted yet, even though the transposition deadline has passed (Austria, Estonia, Greece, Slovenia, and Spain). In Norway the revised directive

has not yet been implemented. However, it is expected to be implemented within a few months even though Norway is not part of the EU. In the UK, and Switzerland, it is unlikely that the new provisions will be transposed since these countries are not part of the European Union. However similar provisions have already been implemented into the domestic legislations of these countries.

### Countries which have implemented the Directive

Bulgaria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Sweden

### Countries which have not yet implemented the Directive, but which will do so in the future.

Austria, Estonia, Greece, Slovenia, Norway, Spain

### Countries which will not implement the Directive

UK, Switzerland

*\*No data for Cyprus*

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## Do all countries have a minimum wage?



There are numerous EU countries where the minimum wage is set both at national level and through collective bargaining agreements.

Collective bargaining agreements are set in different ways (per industry, per sector, between trade unions and employers etc.).

However, these cannot be lower than the minimum wage set at national level.

If collective bargaining agreements with general applicability exist, then the minimum wage granted to an individual cannot be lower than the wage guaranteed by the agreement (irrespective of the minimum wage applicable at national level).

- Minimum wage set at national level only
- Minimum wage set through CBAs only
- Minimum wage set both at national level and through CBAs
- Minimum wage for certain occupations
- Minimum wage not set



## Registration requirements

	Posting up to 12 months	Extension of a posting	Shortening of a posting	Posting over 12 months	Business travelers	Posting from a non-EU country
<b>Austria</b>	Yes	Yes	Yes	Yes	Yes	No
<b>Belgium</b>	Yes	Yes	Yes	Yes	Depends*	Yes
<b>Bulgaria</b>						
<b>Croatia</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Cyprus</b>						
<b>Czech Republic</b>	Yes	Yes	Yes	Yes	Depends*	Yes
<b>Denmark</b>	Yes	Yes	Yes	Yes	Depends*	Yes
<b>Estonia</b>	Yes	Yes	No	Yes	No	Yes
<b>Finland</b>	Yes	Depends *	Depends *	Yes	No	Yes
<b>France</b>	Yes	Yes	Yes	Yes	Depends*	Yes
<b>Germany</b>	Depends *	Depends *	No	No	Depends*	Yes
<b>Greece</b>	Yes	Yes	No	Yes	Depends*	Yes
<b>Hungary</b>	Yes	Yes	Yes	Yes	Depends*	Yes
<b>Ireland</b>	Yes	Yes	Yes	Yes	No	No
<b>Italy</b>	Yes	Yes	Yes	Yes	No	Depends *
<b>Latvia</b>	Yes	Yes	No	Yes	Depends *	No
<b>Lithuania</b>	Yes	Yes	Yes	Yes	No	Yes
<b>Luxembourg</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Malta</b>	Yes	Yes	Yes	Yes	Yes	No
<b>Netherlands</b>	Yes	Yes	No	Yes	Depends *	No
<b>Norway</b>	No	No	No	No	No	No
<b>Poland</b>	Yes	Yes	Yes	Yes	Depends *	Yes
<b>Portugal</b>	No info available	No info available	No info available	No info available	No info available	No info available
<b>Romania</b>	Yes	Yes	Yes	Yes	Depends *	No
<b>Slovakia</b>	Yes	Yes	No	Yes	No	No
<b>Slovenia</b>	Yes	Yes	Yes	Yes	No	Yes
<b>Spain</b>	Yes	Yes	Yes	Yes	Yes	No
<b>Sweden</b>	Yes	Yes	Yes	Yes	No	Yes
<b>Switzerland</b>	Yes	Yes	Yes	No	Yes	No
<b>United Kingdom</b>	No	No	No	No	No	No

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## What are the registration requirements?

**Most EU countries impose registration requirements in the case of postings of up to 12 months. However there are also exceptions. In Germany, the notification requirement depends on whether the posting falls within one of the relevant sectors and/or collective bargaining agreements. (The same applies for postings over 12 months). Also, in Norway there is currently no registration requirement with the labor authorities, irrespective of the period of posting.**



Notification requirements are also required in EU countries when changes occur to the posting period initially notified.

There are various cases where a posting is intended for a certain period, however for various reasons this period is shortened or extended. These actions may result in new obligations for the employer in terms of notification, since what was initially declared is no longer applicable.

For instance, except for Germany and Finland where the need for notification has to be analyzed on a case by case basis, all other EU countries impose notification requirements in the case of extension of a posting. For the shortening of a posting, several countries do not impose a notification requirement (Estonia, Germany, Greece, Latvia, Netherlands, Norway, Slovakia).

Workers who are sent temporarily to work in another Member State, but do not provide services there, are not regarded as posted workers. This is the case, for

example, for workers on business trips (when no service is provided), and those attending conferences, meetings, fairs, undertaking training, etc. In these cases, in certain countries the trip does not need to be notified to the authorities.

However, there are also countries where business trips must be notified, irrespective of the purpose for which the trip occurs. For example, Luxembourg does not distinguish business travelers in its domestic law, and thus any trip must be notified. Similarly, in Croatia, Malta or Spain business travel must be notified to the relevant authorities. Denmark sets out clear circumstances under which notification is not necessary.

In some countries, the national rules cover all nationalities, meaning that posting of both EU and non-EU nationals to their territory must be notified to the relevant authorities.

More details of the notification requirements can be found in the country by country section.

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## How can the authorities be notified?



In most cases, the home country entity is legally required to inform the labor authorities in the host Member State about the employee's activity in that country. This notification can be made online in most EU countries, since online notification systems have been put in place.

However, there are also countries where this notification is done by e-mail or in written form, by regular mail or directly

with the relevant authorities, mainly because an online system is not available. This is the case for Cyprus, Estonia, Greece, Ireland, Lithuania and Romania. For the Czech Republic and Latvia, the notification can only be made in writing.

On the other hand, the United Kingdom and Norway do not require the notification of a posting.

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## How is the 12-month period determined?\*

\*Bulgaria and Cyprus were not included since no official confirmation was received.

Directive 2018/957/EU clarifies aspects related to long-term posting of workers. In this respect, if the total duration of the posting exceeds 12 months (with the possibility of extension to 18 months where applicable), an additional set of terms and conditions applicable to employment relationships will have to be followed.

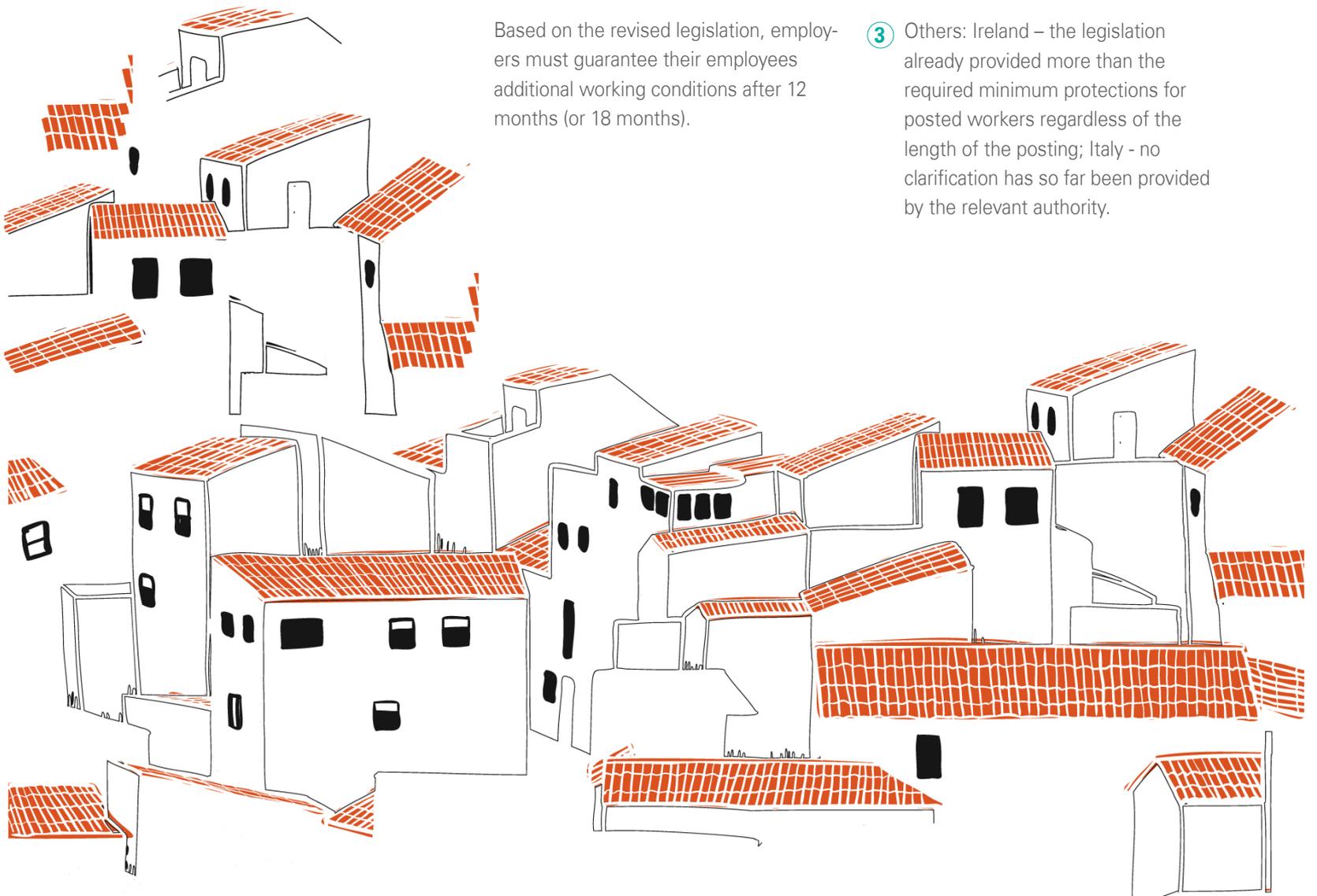
In this case, the question arises: what happens for assignments which were already in place on the date the Directive was implemented? Are the 12 months calculated from the beginning of the assignment (even if the assignment started prior to the Directive being implemented) or starting from the implementation date?

Based on the revised legislation, employers must guarantee their employees additional working conditions after 12 months (or 18 months).

Thus it has to be clearly stated when the additional rights start to apply.

EU countries where the Directive has already been transposed have different approaches to determining the 12-month period.

- 1 The 12-month period is counted as starting from the beginning of the assignment: Belgium, Croatia, France, Germany, Hungary, Malta, Netherlands, Poland, Sweden
- 2 The 12-month period is counted as starting from the implementation date of the revised legislation: Czech Republic, Denmark, Finland, Latvia, Lithuania, Luxembourg, Romania, Slovakia.
- 3 Others: Ireland – the legislation already provided more than the required minimum protections for posted workers regardless of the length of the posting; Italy - no clarification has so far been provided by the relevant authority.



# Austria



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The most recent amendments to the Posting of Workers Directive (incorporated in Directive 2018/957) have not yet been implemented into Austrian legislation.

However, Directive 96/71/EU and its previous amending Directives that followed were implemented several years ago. Furthermore, the minimum wages from Collective Bargaining Agreements are already the benchmark for the compulsory minimum salaries paid to assigned employees (as stipulated in Directive 2018/957).

In February 2021, it was still unclear when Directive 2018/957 will be implemented in Austrian legislation.

## Remuneration of posted workers

### Minimum wage at national level

Austria does not have a minimum wage set by the law, as there is no separate legislation relating to a minimum wage requirement.

### Minimum wage set through collective bargaining agreements (or minimum wage scales)

If the rules of the Anti-Wage and Social Dumping Act (LSD-BG) are applied, the Austrian minimum wage regulations must also be complied with.

Collective bargaining agreements (or minimum wage scales) set a minimum standard. The minimum wage in the collective bargaining agreements changes (usually) annually.

Every year there is a percentile increase of the minimum wage. Some industries raise the minimum wage at the beginning of the year, while others change it during the year (e.g. 1 November).

The minimum wage is determined based on industry (e.g. retail, construction, metal, print and paper, service industry etc.) and on the occupation of the employee (depending on the qualification of an employee, the employer has to assign a rating at the beginning of the employment).

Furthermore, foreign employees are entitled to allowances such as Christmas bonus, holiday allowance and overtime premiums. Except for overtime salary, these allowances are only granted if the collective bargaining agreement (or the minimum wage scale) regulates it.

Otherwise, the employee is not entitled to them. Generally (unless otherwise provided for by the collective bargaining agreement) these allowances are granted on the basis of the monthly wage.

For illustrative purposes, please see below the remuneration applicable for the following 5 industries (amounts applicable in February 2021):

- 1 Automotive: Depending on position and previous years of service: between EUR 2.029,00 and EUR 7.303,61, 14 times a year.
- 2 Telecom: Depending on position and previous years of service: between EUR 1.572,05 and EUR 6.081,39, 14 times a year.
- 3 IT: Depending on position and previous years of service: between EUR 1.614 and EUR 5.355, 14 times a year.
- 4 Construction: Depending on position and previous years of service: between EUR 1.791,00 and EUR 4.905,00 14 times a year.
- 5 Oil & Gas: Depending on position and previous years of service: between EUR 2.083,85 and EUR 8.373,70, 14 times a year.

# What can be included in the remuneration

In order to avoid payment of administrative penalties, applied since May 2011, every foreign employee working in Austria must receive the minimum wage which is stipulated in Austrian law, the applicable collective agreement or the minimum wage scale: Since 2015, claims for surcharges and

overtime pay have also been included in the minimum wage basis.

On the other hand, expense allowances (such as lump sums or tax-free per-diems) cannot be credited against the minimum wage.

If national Austrian provisions provide entitlement to special payments, monthly pro-rata amounts must be paid out to the employee. Since 1 January 2017, this has also applied for supply of temporary workers.

The only exemptions from the minimum wage requirement are remuneration components, which are non-contributory according to Section 49 para 3 (e.g. expense reimbursements, tax and noncontributory daily allowances, dirt-surcharge) of the Austrian General Social Insurance Act (Allgemeines Sozialversicherungsgesetz - ASVG), as well as remuneration components which are only due according to the individual employment contract or company agreements (e.g. special payments, performance bonus).

## Included in the remuneration

Basic salary/basic wage

Overtime payments

Bonuses

Surcharges (eg overtime surcharge (50%/100%), shift bonus, hardship allowance, hazard bonus

Special payments (Foreign service premium, Cost of living allowance, Hardship premium, Country allowance, Assignment allowance)

Idle time compensations

## Not included in the remuneration (examples)

Tax-free Per-diems

Housing (if an expense reimbursement)

Transportation costs

Meal costs, dirt surcharge

Severity allowance

Performance bonus

# Working hours

Since 1 September 2018 the maximum legal hours have not been permitted to exceed 12 per day and 60 per week.

## Mandatory registration of posted workers

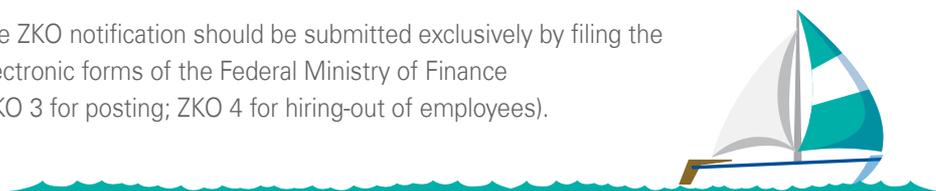
Employers and temporary work agencies (Überlasser) established in an EU Member

State or EEA State or the Swiss Confederation should notify the employment of employees posted or hired-out to Austria in a timely manner.

A separate notification should be filed each time an employee is posted or hired-out. Changes of data required for the notification should be notified without delay (amendment notification).

The posting or hiring-out of employees should generally be notified to the Central Coordination Office (ZKO) of the Austrian Federal Ministry of Finance prior to commencement of the work in Austria (so-called "ZKO notification").

The ZKO notification should be submitted exclusively by filing the electronic forms of the Federal Ministry of Finance (ZKO 3 for posting; ZKO 4 for hiring-out of employees).



The electronic forms can be found under the following links:

**ZKO 3 forms (posting):**

<https://bit.ly/33hwNYj>

**ZKO 4 forms (hiring-out of employees):**

<https://bit.ly/3b7oAu7>

**Further forms (transport sector, appointment of responsible representative):**

<https://bit.ly/3tosdIJ>

(press button "Link to the forms" in the table of contents)

The most important exemptions are highlighted below. These exemptions are applicable for short-time assignments only (as defined), except for the last one (temporary intragroup assignments/hiring-outs) which is also applicable for the hiring-out of employees:

- ① In cases involving "transit traffic," activities by mobile employees or crew-members in the crossborder transport of goods or passengers.
- ② Activities as an employee of internationally active groups or companies, if the employee concerned receives a monthly gross remuneration of at least 125 percent of thirty-times the daily ASVG-maximum contribution basis (2019 estimate: €6,525).
- ③ Temporary intra-group assignments or hiring out of especially qualified employees for a maximum of two months per calendar year, as long as the work in Austria is for the purposes of research and development, planning of project work, holding of a training course, or otherwise for the purposes of exchanging experiences, consulting the company, or controlling or participating in a cross-border group-department with management and planning functions.

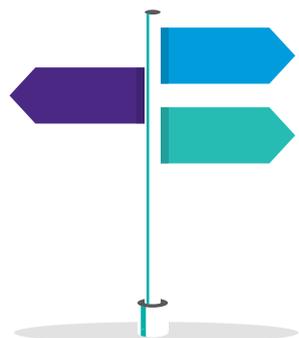
**Posted workers**

**Registration (Yes/No/Depends)**

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Yes
Posting from a non-EU country **	No

*\*Generally, every assignment from a business traveler needs to be registered from day one, unless an exemption applies: there is no registration obligation in the case of assignments of short duration (approx. 1-7 days) if only certain activities are performed (e.g. attending seminars and congresses without rendering any services, business meetings as long as no further services are rendered, trade fairs and events similar to trade fairs except of preparatory and concluding work). A short assessment should be carried out prior to the assignment.*

*\*\*Austria does not have a registration requirement with respect to postings from non-EU countries under the posting legislation. However, immigration rules have to be complied with.*



 **Determining the 12 month period**

As Directive 2018/957 has not yet been implemented, the duration of the assignment has no impact.

 **Documents and legal representation**

The following documents should generally be kept readily available at the Austrian place of work

during the posting period / the period the employee is hired-out or should be made accessible electronically on site and at the time of the investigation:

- A** Notification documents, social security documents and official permits
- B** Wage / salary documents, whereby these documents generally need to be provided in German

**A Notification documents, social security documents and official permits such as:**



- ① documents showing the employee's registration for social insurance purposes (social security document E 101 or social security document A 1), provided that the posted / hired-out employee is not subject to mandatory social security in Austria; if, at the time of the investigation, the employer / temporary work agency furnishes evidence in German showing the inability to obtain these documents from the competent social security institution prior to the posting / hiring-out, equivalent documents in German (application for issuance of social security document E 101 or A 1 and confirmation of the competent social security institution that the employee is subject to a foreign social security scheme for the period of posting / hiring-out) should be kept readily available;
- ② the ZKO 3 / ZKO 4 notification;
- ③ the official work permit of the posted / hired-out employee in the country where the employer / temporary work agency is established (if required, concerning third-country-nationals).

**B Wage / salary documents, whereby these documents generally need to be provided in German such as:**

- ① the employment contract or the statement of terms and conditions (can also be provided in English);
- ② Payslips (Lohnzettel);
- ③ proof of wage/salary payment or bank transfer statements;
- ④ wage records;
- ⑤ records of hours worked; and
- ⑥ documents relating to pay categorization in order to verify the remuneration that is payable to the employee under Austrian law for the duration of the employment.

A certified translation is not required. Documents must be kept available only during the assignment.

As an alternative to the general rule, the documents can be kept readily available / made electronically accessible at the time of investigation at the following places, provided that this is specified in the ZKO notification:

- with the contact person specified in the ZKO notification; or
- at a branch registered in Austria where the foreign employer operates regularly; or
- at an Austrian independent subsidiary or the Austrian parent company of a group; or
- with a professional representative located in Austria (i.e. certified accountants and tax advisors, attorneys-at-law, notaries).

Further document storage obligations may arise from other legal provisions (in particular, the Austrian Personnel Leasing Act, the Austrian Act on the Employment of Foreign Nationals, the Austrian Aliens Police Act and/or the Austrian Settlement and Residence Act).

Austrian legislation provides for the posting entity to indicate a legal representative in Austria to establish contact with the Austrian authorities.



## Penalties for non-compliance

In the case of non-compliance with the above requirements, penalties vary as follows:



### Offence

Violations of notification obligations and the obligation to keep notification documents, social security documents and official permits readily available (e.g. Not keeping the A1 form available, Not keeping the ZKO 3/ZKO 4 form available at the place of work)

Not keeping the wage/salary documents available; such wage/salary documents which are required for establishing the remuneration due to the employee under Austrian law, which should be in the German language (except for the service-contract, which may be in English) and must be available during the entire period of posting to the place of work/deployment in Austria)

Minimum rates of pay are undercut (underpayment during several periods of salary payment, causes only one offence; payments that exceed payments according to provision, law or collective bargaining agreement are charged against underpayments in the respective period of salary payment; special payments for employees underlying the ASVG, an offence of underpayment only exists if the special payment is not or not fully paid by 31 December of the respective calendar year; penalties also apply for home workers if payments do not correlate with law or provisions under consideration of applicable classification rules)

### Penalties starting 1 Jan 2017

#### in the case of an assignment:

€ 1,000 – € 10,000 per employee  
in the case of recurrence:  
€ 2,000 – € 20,000 per employee

#### in the case of hiring-out of employees:

€ 500 – € 5,000 per employee  
€ 1,000 – € 10,000 per employee in the case of recurrence

#### up to 3 employees:

€ 1,000 – € 10,000 per employee  
in the case of recurrence:  
€ 2,000 – € 20,000 per employee

#### more than 3 employees:

€ 2,000 – € 20,000 per employee  
in the case of recurrence:  
€ 4,000 – € 50,000 per employee

#### up to 3 employees:

€ 1,000 – € 10,000 per employee  
in the case of recurrence:  
€ 2,000 – € 20,000 per employee

#### more than 3 employees:

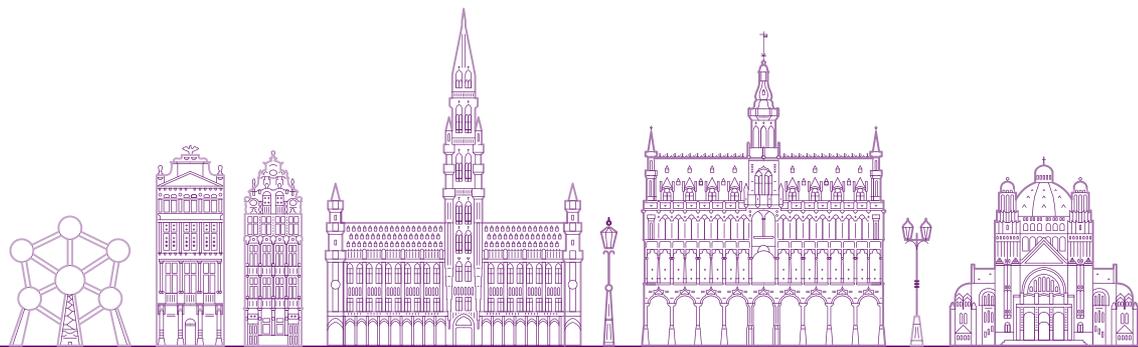
€ 2,000 – € 20,000 per employee  
in the case of recurrence:  
€ 4,000 – € 50,000 per employee

## Public sources of information

Please see below a link which leads to the official website of the Austrian Federal Ministry of Labor, Social Affairs, Health and Consumer Protection. There you will find all important information relating to the application of minimum wage requirements and collective bargaining agreements

<https://bit.ly/3b6pWWW7>

# Belgium



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The revised rules on posted workers have been implemented in Belgian legislation and entered into force on 30 July 2020.



## Remuneration of posted workers

The Revised PWD introduced the principle “equal pay for equal work,” which implies that the remuneration of assigned employees should be at the same level as the salary of local workers, including the additional salary elements such as bonuses or allowances. Considering that Belgium had already implemented the PWD in a very broad sense, the revision has a minimal impact.

It was already stipulated in Belgian legislation that an employer who temporarily posts its workers to Belgium is required to respect a “hard core” of minimum mandatory Belgian rules concerning working conditions, including rules on working hours, salary conditions, public holidays, etc., which implies that almost the entire Belgian labour law code was applicable to posted employees even before 30 July 2020.

The revision brings, however, more clarity around the concept of remuneration. As the Revised PWD requires that member states set out in a transparent way the different elements of remuneration in their territory, the new Belgian legislation specifies that the “hard core” provisions will now include rules on the payment of allowances or reimbursement of expenses covering travel, accommodation, and food expenses for workers who are away from home for professional purposes.

## Minimum wage at national level

Belgium does not have a minimum wage set at national level.

## Minimum wage set through collective bargaining agreements (or minimum wage scales)

In Belgium, minimum wages are set at industry level, which is divided into various joint committees.

Each joint committee (JC) applies different minimum wages, as concluded by a collective bargaining agreement (CBA). Consequently, the change of the level of the minimum wage and the expected date for this change varies, depending on the applicable CBA .

A system of automatic wage indexation also exists in Belgium, which is imposed by law, but set by CBA.

The minimum wage in Belgium is determined as a fixed gross amount, subject to occupation, seniority and industry/sector and possibly also the region where the employee works. Below, we have provided the sectorial minimum wages for starters in the auxiliary joint committees for blue-collar and white-collar employees.

## Blue collar workers

JC n° 100: Auxiliary joint committee for blue-collar employees

EUR 1,611.34 gross / month

## White collar workers

JC n° 200: Auxiliary joint committee for white-collar employees

Category A: EUR 1,790.15 gross / month  
 Category B: EUR 1,864.74 gross / month  
 Category C: EUR 1,891.12 gross / month  
 Category D: EUR 2,039.92 gross / month

If the competent industry's CLA does not mention wages or there isn't any agreement, the guaranteed minimum monthly income (GMMI) still have to be complied with. This basic wage also differs depending on the age and seniority of the employee.

It should be noted that the GMMI is not a minimum monthly income in the strict sense of the term, since it includes certain amounts such as an end-of-year bonus or a work placement allowance.

For illustrative purposes, please see below the remuneration applicable for the following 5 industries:

## Automotive

### Blue collar workers

JC n° 111.01: joint committee for blue-collar employees in the metal, mechanical and electrical construction sector

#### Minimum hourly salary:

National:  
 12.4211 gross/hour for 38h/week  
 Province of Brabant:  
 12.4211 gross/hour for 38h/week  
 12.1026 gross/hour for 39h/week  
 11.8000 gross/hour for 40h/week  
 Province of Antwerp:  
 13.0350 gross/hour for 38h/week  
 Province of Limburg:  
 12.4399 gross/hour for 38h/week

Province of East Flanders:  
 for 38h/week  
 Category 1 13.2018 gross/hour  
 Category 2 13.4856 gross/hour  
 Category 3 13.6555 gross/hour  
 Category 4 13.8824 gross/hour  
 Category 5 14.1096 gross/hour  
 Category 6 14.4494 gross/hour  
 Category 7 14.7899 gross/hour  
 Category 8 15.2441 gross/hour  
 Category 9 15.5835 gross/hour  
 Category 10 15.9811 gross/hour  
 Category 11 16.3772 gross/hour

### White collar workers

JC n° 209: joint committee for white-collar employees in the metal fabrications sector

#### Minimum wages (gross/month):

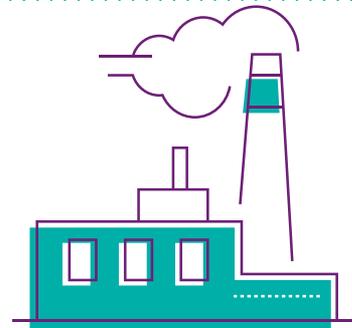
Administrative employees						
Step 1		Step 2		Step 3		Step 4
1,806.51 EUR		1,974.54 EUR		2,176.34 EUR		2,328.14 EUR
Technical employees						
Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1,806.51 EUR	1,907.19 EUR	1,974.54 EUR	2,025.19 EUR	2,176.34 EUR	2,193.63 EUR	2,328.14 EUR
Draughtsmen						
Step 1		Step 2		Step 3		Step 5
1,907.19 EUR		2,025.19 EUR		2,328.14 EUR		2,765.86 EUR
Foremen						
Step 1		Step 2			Step 3	
2,092.50 EUR		2,462.79 EUR			2,665.02 EUR	
Tracers for boiler work						
Step 1				Step 2		
2,328.14 EUR				2,446.10 EUR		

Guaranteed average minimum monthly income for employees with a minimum age of 18:

National: 1,806.51 gross/month  
 Provinces: 1,806.51 gross/month

There are 3 minimum wages (gross amounts):

- 1 For employees who are at least 18 years old: EUR 1,593.81 gross /month
- 2 For employees who are at least 19 years old and have at least 6 months of seniority: EUR 1,636.09 gross/ month
- 3 For employees who are at least 20 years old and have at least 12 months of seniority: EUR 1,654.90 gross / month



## Blue collar workers

Province of West Flanders:  
for 38h/week  
Category 1 - 13.1444 gross/hour  
Category 2 - 13.4271 gross/hour  
Category 3 - 13.5957 gross/hour  
Category 4 - 13.8215 gross/hour  
Category 5 - 14.0479 gross/hour  
Category 6 - 14.3869 gross/hour  
Category 7 - 14.7251 gross/hour  
Category 8 - 15.1766 gross/hour  
Category 9 - 15.5144 gross/hour  
Category 10 - 15.9104 gross/hour  
Category 11 - 16.3056 gross/hour

Provinces of Liège and Luxembourg

	Starter	After 6 months
For 36 hours/week	13.2969 gross/hour	13.7251 gross/hour
For 37 hours/week	12.9376 gross/hour	13.3541 gross/hour
For 34 hours/week	12.5971 gross/hour	13.0027 gross/hour
For 39 hours/week	12.2741 gross/hour	12.6693 gross/hour
For 40 hours/week	11.9672 gross/hour	12.3526 gross/hour

Province of Namur

12,5969 gross/hour for 38h/week

Province of Hainaut

12,5971 gross/hour for 38h/week  
for starters

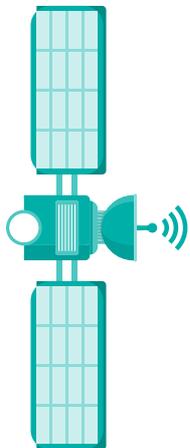
13,0027 gross/hour for 38h/week  
after 6 months

## Telecom

Auxiliary joint committees for blue-collar (JC 100) and white-collar employees (JC 200): see above.

## IT

Auxiliary joint committees for blue-collar (JC 100) and white-collar employees (JC 200): see above.



## Construction

### Blue collar workers

JC n° 100: Joint committee for blue-collar employees in the construction sector

Hourly schedule (on weekly basis) 40 hours/week

Cat. I: 14.740 gross/hour  
Cat. IA: 15.472 gross/hour  
Cat. II: 15.713 gross/hour  
Cat. IIA: 16.498 gross/hour  
Cat. III: 16.711 gross/hour  
Cat. IV: 17.738 gross/hour  
Head of team (III): Cat. III + 10%  
Head of team (IV): Cat. IV + 10%  
Foreman: Cat. IV + 20%

The hourly wage of the Head of a team has to be at least 10% higher than the minimum wage. For the head of a team consisting of blue collar workers with different professional qualifications, the wage paid to the head of a team may not be less than the standard wage of the blue collar workers with the highest professional qualifications, plus 10 %.

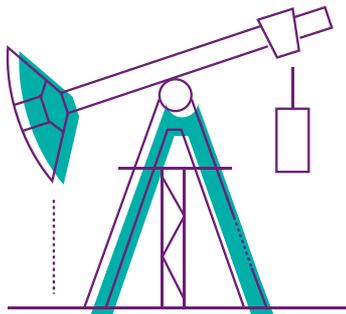
### White collar workers

JC n° 200: Auxiliary joint committee for white-collar employees

Category A: EUR 1,790.15 gross / month  
Category B: EUR 1,864.74 gross / month  
Category C: EUR 1,891.12 gross / month  
Category D: EUR 2,039.92 gross / month

## Oil&Gas

Depending on the actual activities, employers and employees could belong to Joint Committee 116 or 207 (blue collar employees and white collar employees in the chemical sector), Joint Committee 117 or 211 (blue collar employees and white collar employees in the petrol sector), Joint Committee 127 (blue collar employees in sector for fuel trade), or Joint Committee 326 for gas and electricity companies.



By way of example, the following minimum monthly salaries for white collar workers of Joint Committee 207 are applicable:

Years of experience	Category				
	1	2	3	4A	4B
0	1,833.91	1,873.44			
1	1,846.24	1,888.03	1,916.21		
2	1,858.40	1,902.72	1,938.83		
3	1,870.65	1,917.23	1,961.30	2,080.57	
4	1,882.99	1,931.97	1,984.08	2,106.49	2,244.93
5	1,895.26	1,946.60	2,006.69	2,132.50	2,274.46
6	1,907.46	1,961.19	2,029.44	2,158.59	2,303.89
7	1,919.69	1,975.84	2,051.96	2,184.52	2,333.41
8	1,931.97	1,990.67	2,074.66	2,210.56	2,362.80
9	1,944.20	2,005.16	2,097.35	2,236.51	2,392.45
10	1,956.36	2,019.81	2,119.99	2,262.52	2,421.98
11	1,968.66	2,034.36	2,142.55	2,288.59	2,451.30
12	1,980.97	2,049.10	2,165.28	2,314.64	2,480.78
13	1,993.26	2,063.78	2,187.83	2,340.62	2,510.25
14	2,005.45	2,078.41	2,210.43	2,366.72	2,539.78
15	2,017.71	2,093.07	2,233.16	2,392.80	2,569.11
16	2,029.88	2,107.79	2,255.81	2,418.64	2,598.72
17	2,042.22	2,122.31	2,278.52	2,444.61	2,628.11
18	2,054.49	2,136.93	2,301.14	2,470.77	2,657.66
19	2,066.61	2,151.58	2,323.72	2,496.65	2,687.13
20	2,078.93	2,166.25	2,346.33	2,522.74	2,716.56
21		2,180.91	2,369.11	2,548.86	2,746.10
22			2,391.65	2,574.89	2,775.61
23			2,414.31	2,600.84	2,805.10
24			2,437.08	2,626.88	2,834.58
25			2,459.69	2,652.73	2,864.06
26			2,482.32	2,678.90	2,893.56
27				2,704.91	2,922.84
28				2,730.85	2,952.49
29					2,981.85

## What can be included in the remuneration

In Belgium, only the basic salary and certain benefits in kind are considered to be part of the minimum wage.

All other additional benefits and allowances must not be taken into account in order to calculate whether the minimum wage, as established by CBA in the applicable joint committee, has been respected.

### Included in the remuneration

Basic salary

Benefits in kind (housing, gas, electricity, water, heating, accommodation, food, tools and/or clothes, materials) at their actual value



### Not included in the remuneration

Per-diems

Special payments pertaining to work performed outside Belgium (Foreign service premium, Cost of living allowance, Hardship premium, Country allowance, Assignment allowance)

Bonuses

Transportation costs

Meal costs

Contributions to the group insurance scheme or hospitalization insurance

## Working hours

In principle, the working hours of employees in Belgium may not exceed 8 hours per day and/or 38 hours per week.

Nonetheless, this daily and weekly limit on working time may be exceeded in a number of well-defined circumstances and subject to certain specific conditions. For example, a working week of 40 hours with the allocation of 12 compensatory days of rest over a one-year reference period.

Moreover, certain industries have explicitly reduced the maximum working hours, replacing the legal limits.

Exceptions to the maximum working hours are possible if certain legal conditions are met.

## Mandatory registration of posted workers

Except for certain excluded categories of posted employees, the foreign employer must, prior to the actual employment of the posted employee on Belgian territory, submit an electronic notification to the Belgian National Social Security Office (NSSO) via [www.limosabe.be](http://www.limosabe.be).

It is, however, important to note that this so-called 'Limosa-notification' has nothing to do with the

work and employment permits that may be required for the employment of foreign employees in Belgium. Furthermore, if the employer does not comply with the obligation for the prior Limosa-notification of posted employees, the Belgian end user or principal is required to do this.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months

Yes

Extension of a posting

Yes

Shortening of a posting

Yes

Posting over 12 months

Yes

Business travelers\*

Depends

Posting from a non-EU country

Yes

*\*Business travelers to Belgium are exempted from the obligation to declare if they are attending small group meetings that do not exceed 20 successive calendar days. This exemption applies to meetings with a closed attendee list (e.g. strategic negotiations, contract negotiations with clients, performance reviews which are the typical activities of a business traveller and provided that the attendance of the employee at these meetings does not exceed 60 calendar days per calendar year, with a maximum of 20 consecutive calendar days per meeting.*



## Determining the 12 month period

The period from the start of the posting will be taken into account even if prior to 30 July 2020 but employment rights will not be backdated to a date prior to 30 July 2020



## Documents and legal representation

A liaison officer is to be identified who is in charge of liaising with the Belgian (inspection) authorities – this applies to all sectors. The liaison officer is the employer’s contact person with the Belgian inspection authorities.

The liaison officer can be any individual authorized by the posting company to fulfill the information obligations in relation to the Belgian (inspection) authorities (when requested to do so by the latter). The officer does not have to be domiciled or reside in Belgium.

The liaison officer must be appointed through the LIMOSA notification tool. The following details about the liaison officer must be registered in the online LIMOSA application:

- ① Surname, first name and date of birth (if the liaison officer has a Belgian social security number identification, this number is sufficient);
- ② The capacity in which the liaison officer operates;
- ③ The physical and electronic addresses, as well as a phone number, at which the liaison officer can be contacted by the authorities.

The liaison officer must have the following documents available, with respect to the posted employees, on paper or in electronic format and must provide these on the request of the Belgian social inspection authorities in order to allow them to verify compliance with the Belgian working conditions:

- ① A copy of the signed employment agreement of the posted worker or any similar documents;
- ② Various items of information about the conditions of the posting (e.g. duration of the posting, foreign salary and benefits in kind as paid during the posting, conditions of repatriations of the seconded employee, etc.);
- ③ An overview of the working hours (daily/weekly working time, etc.);
- ④ The proof of effective payment of the salaries.

The employer and liaison officer are required to archive these documents until one year after the end of the posting.

On the explicit request of the Belgian inspection authorities, the employer is required to translate these documents into Dutch, French, German or English.

## Penalties for non-compliance

Non-compliance by the employer with the rules on the minimum wage, the maximum working hours, the liaison officer or the social documents is penalized in Belgium with a level 2 penalty, consisting of either a criminal fine of between EUR 400.00 and EUR 4,000.00 or an administrative fine of between EUR 200.00 and EUR 2,000.00.

The fine (criminal or administrative) must be multiplied by the number of employees concerned,

without being able to exceed one hundred times the maximum fine.

Non-compliance by the end user or the principal with the rules on the prior Limosa-notification for posted employees is penalized in Belgium with a level 3 penalty, consisting of either a criminal fine of between EUR 800.00 and EUR 8,000.00 or an administrative fine of between EUR 400.00 and EUR 4,000.00.

The fine (criminal or administrative) must be multiplied by the number of employees concerned, without being able to exceed one hundred times

## Penalties for non-compliance

the maximum fine. The same penalties apply for an assigned self-employed worker who has not duly reported his/her activities via Limosa, if the activities are pursued in a high risk industry (construction, the meat processing industry and the cleaning industry).

Non-compliance by the employer with the rules on the prior Limosa-notification for posted employees is penalized in Belgium with a level 4 penalty, consisting of either a prison sentence of between 6 months and 3 years and a criminal fine of

between EUR 4,800.00 and EUR 48,000.00 or one of those penalties alone, or an administrative fine of between EUR 2,400.00 and EUR 24,000.00.

The fine (criminal or administrative) must be multiplied by the number of employees concerned, without being able to exceed one hundred times the maximum fine.

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## Public sources of information

<https://www.employment.belgium.be/en>  
[https://www.international.socialsecurity.be/working\\_in\\_belgium/en/limosa.html](https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html)



# Bulgaria



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The Ordinance for the transposition of the revised Directive 2018/957 was promulgated on 22 January 2021 in the State Gazette and became effective on 25 January 2021.

## Remuneration of posted workers

### Minimum wage at national level

Bulgaria has a minimum wage set at national level. The minimum wage in 2020 was BGN 610 per month (approximately EUR 305). The minimum wage is revised on an annual basis.

### Minimum wage set through collective bargaining agreements (or minimum wage scales)

The minimum wage requirement in Bulgaria is fixed regardless of the industry, age or occupation. However, the minimum insurable income varies depending on the occupation and is generally higher than the minimum wage.

## What can be included in the remuneration

### Included in the remuneration

-  Basic salary/basic wage
-  Annual paid leave

### Not included in the remuneration

-  Per-diem
-  Housing
-  Transportation costs
-  Meal costs

## Working hours

In Bulgaria, the maximum legal working hours are 8 hours/day, equivalent to 40 hours/week

## Mandatory registration of posted workers

Employers registered in a Member State of the EU/EEA, in Switzerland or a third country posting employees to Bulgaria must notify the local labor inspectorate in whose territory the activity is to be carried out, by submitting an application in standard form, prior to the commencement of provision of services related to the posting.

The applications should be submitted electronically through the single national website of the General Labor Inspectorate <https://bit.ly/3bhOGLa>.

The foreign employer is also required to notify the labor inspectorate about changes in the posting conditions.

## Documents and legal representation



The local undertaking which accepts the posted employee should keep at the employee's place of work for the period of the posting, in electronic format or hardcopy, a copy of the following documents provided by the foreign sending company:

- employment contract or equivalent document evidencing the employment relations under the legislation of the home country;
- documents evidencing the hours worked containing information for the beginning, the end and the duration of the working time;

- pay slips or copies of equivalent documents evidencing paid salaries.

The above documents should be accompanied by a translation into the Bulgarian language (a certified translation is not required).

The foreign employer must be able to provide the documents about the posting in the event of inspections by the labor authorities within 1 year after expiry of the posting.

## Penalties for non-compliance

For non-compliance with the provisions of labor legislation the labor authorities may impose penalties of: i) from BGN 1,500 to BGN 15,000 (approximately EUR 770 to EUR 7,700) per breach for the employer and ii) from BGN 1,000 to BGN 10,000 (approximately EUR 510 to EUR 5,120) per breach for the responsible officer.

For recurring violations the penalties are i) from BGN 20,000 to BGN 30,000 (approximately EUR 10,000 to EUR 15,000) for the employer and ii)

from BGN 5,000 to BGN 10,000 (approximately EUR 5,000) for the responsible officer.

For a local entity which has accepted a posted employee from another Member State of the EU/EEA or Switzerland, or an employee from a third country in breach of the terms and conditions of posting within the framework of the provision of services, a fine of BGN 5,000 for each employee, and for a second offense – from BGN 5,000 to BGN 10,000 can be imposed.

## Public sources of information

<https://www.mlsp.government.bg/>  
[https://www.mlsp.government.bg/index.php?lang=\\_eng](https://www.mlsp.government.bg/index.php?lang=_eng)  
<http://www.gli.government.bg/page.php?c=211>  
<https://postedworkers.gli.government.bg/>

# Croatia



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The Law on Posting of Workers to the Republic of Croatia and Cross-Border Enforcement of Monetary Fines, by which Directive 2018/957 was implemented into Croatian legislation, was published in the Official Journal No. 128/2020 on 20 November 2020, and came into effect on 1 January 2021.

The Law on Posting of Workers to the Republic of Croatia and Cross-Border Enforcement of Monetary Fines applies to all postings which are in place as at 1 January 2021, not only to those starting as from 1 January 2021.

## Remuneration of posted workers

### Minimum wage at national level

All employees who work in Croatia, irrespective of the industry, occupation or age, are entitled to a minimum wage in accordance with the Croatian Minimum Wage Act (Official Journal of Croatia No. 118/18).

Under Government Decree (Official Journal No. 119/20), the gross minimum wage in Croatia in the period between 1 January 2021 and 31 December 2021 is HRK 4,250.00 per month (the equivalent of approximately EUR 560).

During 2020 the minimum wage was set at HRK 4,062.51 (the equivalent of approximately EUR 535). The minimum wage is updated annually.

In certain cases, the applicable wage can be lower than the minimum wage set by the Croatian Minimum Wage Act, if that wage is part of a collective bargaining agreement.

However, even in such cases, the wage cannot be lower than 95% of the minimum wage set by the Croatian Minimum Wage Act - i.e. HRK 4,037.50 (the equivalent of approximately EUR 532.50).

## Minimum wage set through collective bargaining agreements (or minimum wage scales)

If there is a universally applicable collective bargaining agreement in place in Croatia, then the minimum salary payable to the posted worker cannot be lower than the salary guaranteed by the collective agreement.

Currently, only the Collective Agreement for the Construction Industry (Official Journal No. 115/25 and 26/18; consolidated version No. 93/20) is universally applicable in Croatia, to all employers doing business in the construction sector.

According to this agreement, the minimum salary depends on the complexity of the particular work position. Consequently, the Collective Agreement for the Construction Industry includes Appendix 1 ("Tariff Rates") which deals with the complexity factors for the calculation of the basic wage for particular work positions in the construction industry. Under the Tariff Rates, work positions in the construction industry are divided into 10 different complexity groups.

As from 1 September 2020, the minimum wage for the simplest work positions in the construction industry (e.g. transport worker or cleaner) cannot be lower than HRK 4,200.00 per month (the equivalent of approximately EUR 555). The minimum wage for the most complex work positions in the construction industry (e.g. construction project manager) cannot be lower than HRK 11,130.00 per month (the equivalent of approximately EUR 1,470.00). The mentioned figures are gross.



# What can be included in the remuneration

As mentioned above, posted workers are inter alia guaranteed the compensation for the work performed, as guaranteed at the level of the legislation and universally applicable collective agreements in Croatia, if this is more favorable for them than the terms of employment granted to them by the foreign law applicable to their employment.

For posted workers who are not be subject to a universally applicable collective agreement in Croatia, the following rules apply:

## Included in the remuneration

minimum wage

## Not included in the remuneration

Overtime payments

Night work, work on Sunday and work on holidays

Bonuses

Per-diems

Housing

Transportation costs

Meal costs

Special payments (Foreign service premium, Cost of living allowance, Hardship premium, Country allowance, Assignment allowance)

In relation to determining the minimum compensation for the work performed guaranteed to the posted workers in the construction sector, some differences compared to the above table exist.



# Working hours

The maximum legal working hours are 40 per week. Any additional work is considered overtime.



# Mandatory registration of posted workers

Prior to commencement of work of posted workers in Croatia, an EEA employer has to submit a posting declaration to the Labour Inspectorate. The posting declaration has to be submitted electronically, prior to the commencement of posting, in the form and with all mandatory information as prescribed by the by-law on the form and content of a posting declaration issued by the Croatian Minister of Labour. Once the new by-law is adopted, the posting declarations must be submitted in a different manner, i.e. via an online application.

Any changes in the posting declaration must be reported to the Croatian Labour Inspectorate within three days.

## Posted workers

## Registration

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months *	Yes
Business travelers**	Yes
Posting from a non-EU country	Yes

*\* If the posting exceeds 12 months (or 18 months, if an extension for an additional 6 months is approved), all other terms and conditions of employment that domestic workers are entitled to as per the Croatian legislation and universally applicable Croatian collective agreements (with the exception of those governing formalities concerning entering into and termination of employment, non-competition and the voluntary pension insurance system), will apply to the posted worker.*

*\*\*A posting declaration must be submitted even if the posting lasts one day.*

## Determining the 12 month period

In relation to those assignments which were in progress on 1 January 2021 and which up to 1 January 2021 lasted less than 18 months, the Law on Posting of Workers to the Republic of Croatia and Cross-Border Enforcement of Monetary Fines provided that there is no need to file an application for the extension of the

period during which only the guaranteed minimum employment terms and conditions apply. Therefore, those posted workers falling under this category are subject to the guaranteed minimum employment terms and conditions until the duration of their posting reaches 18 months.

For those assignments which were in progress on 1 January 2021 and had already lasted longer than 18 months, the foreign employer is required to apply the legislative provisions on long-term postings (i.e. guaranteed minimum employment terms and conditions, as well as other terms and conditions applicable to domestic workers) as from 1 January 2021.

Where the posted worker replaces another posted worker who performs the same task at the same place, the posting periods of each individual posted worker are cumulatively calculated in the total duration of the posting period, unless otherwise provided by a specific regulation.

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## Documents and legal representation

An EEA employer, as well as a non-EEA employer, has to designate a person who will keep certain documents at the place where the posted workers will work (or at another specifically indicated place in Croatia). Specifically, this person will be required to provide the following documents to the Croatian authorities upon their request:

- ① Employment contract.
- ② Salary calculations which show all elements of the salary and the manner in which the salary has been determined (only for those months when the posted worker worked in Croatia).
- ③ Proof that the salary has been paid (only for those months when the posted worker worked in Croatia).
- ④ Records of working hours for the period when the posted worker worked in Croatia showing the commencement, duration and end of working hours.
- ⑤ A1 certificate (for posted workers employed in the EU), or certificate of coverage (for posted workers employed in third countries).
- ⑥ Documentation related to health and safety at work.
- ⑦ For posted workers who are third country nationals – work permit or other document showing that the worker is lawfully employed with the employer making the posting.
- ⑧ The Croatian Labor Inspectorate reserves the right to request additional documents.



These documents must be retained for two years after the posting ends. Documents can be kept in their original language. However the authorities may require a translation. The nominated person must be physically present in Croatia.

## Penalties for non-compliance



The Law on Posting of Workers to the Republic of Croatia and Cross-Border Enforcement of Monetary Fines, provides for a fine between HRK 31,000 and HRK 50,000 (approximately EUR 4,150 to EUR 6,670) for a foreign employer posting its workers to Croatia, if the foreign employer, inter alia:

- 1 Fails to submit a complete and accurate posting declaration prior to the commencement of posting.
- 2 Fails to report any change of information set out in the posting declaration within three days from the change taking place.

Furthermore, the Law on Posting of Workers to the Republic of Croatia and Cross-Border Enforcement of Monetary Fines provides for fines of between HRK 10,000 and HRK 20,000 (approximately EUR 1,350 to EUR 2,700) for the responsible person of the foreign employer.

For non-compliance with the above minimum wage requirements, fines, which range from HRK 60,000 (approximately EUR 7,925) to HRK 100,000 (approximately EUR 13,210) for the employer and HRK 7,000 (EUR 925) to HRK 10,000 (approximately EUR 1,320) for the for the responsible person of the employer can be imposed.

3 Fails to appoint a person in Croatia responsible for safekeeping of prescribed documents.

4 Fails to appoint a contact person in Croatia for communication with the authorities.

Fails to issue a confirmation about authorizations of the person responsible for the safekeeping of prescribed documents.

6 Fails to issue a confirmation about authorizations of the contact person in Croatia responsible for communication with the authorities.

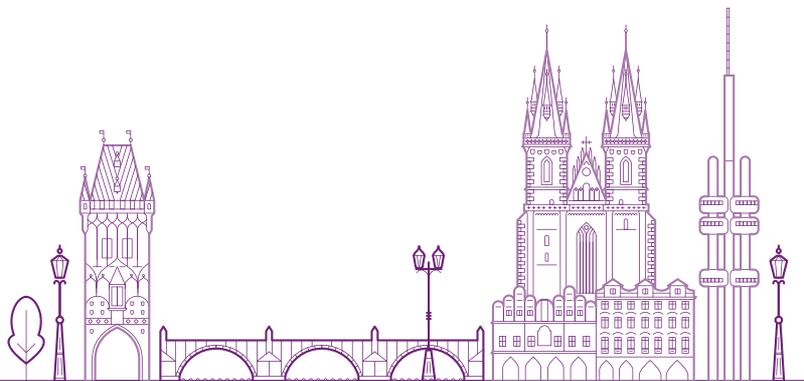
## Public sources of information

Please find below a link to the web page of the Croatian Ministry of Labor and Pension System which provides a detailed overview in English of the Croatian minimum wage legislation and obligations of foreign entities assigning personnel to Croatia:

<https://bit.ly/2R9Hiuu>



# The Czech Republic



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Czech legislation has been modified to comply with an amendment to the EU Directive on the Posting of Workers. This new package of measures entered into effect on 30 July 2020 as a part of an amendment to the Czech Labor Code.



## Remuneration of posted workers

### Minimum wage at national level

The Czech Republic has a minimum and also guaranteed wage requirement set by law. The minimum and the guaranteed wage is determined as a monthly amount and as an hourly rate. The minimum and the guaranteed wage is revised by the Government generally every year, with effect as from 1 January.

The current level of the minimum wage is applicable as from 1 January 2021. The minimum wage per hour is CZK 90.50 (approx. EUR 3.6), while the minimum wage per month is CZK 15,200 (approx. EUR 585), which is applicable to all employees.

In 2020, the minimum wage per hour was CZK 87.30 (approx. EUR 3.5), while the minimum wage per month was CZK 14,600 (approx. EUR 584). As well as the minimum wage, Czech labor law also includes minimum levels of wage in relation to the difficulty and responsibility of the relevant work, which is called a 'guaranteed wage'.

Based on the Government regulation there are 8 levels for the guaranteed wage. The levels of guaranteed wage for the year 2021 vary between

CZK 15,200 per month or CZK 90.50 per hour for the jobs of the lowest complexity, responsibility and difficulty (which is the minimum wage) to CZK 30,400 per month or CZK 181.00 per hour for the jobs of the highest complexity, responsibility and difficulty. Both the minimum and guaranteed wage requirements apply only if the employee is posted to the Czech Republic for more than 30 days in a calendar year (unless it is an agency employment).

### Minimum wage set through collective bargaining agreements (or minimum wage scales)

The levels of the minimum and guaranteed wage may also be set through collective bargaining agreements at a higher-level, which may be concluded for individual branches of business.

The existence of a collective bargaining agreement at a higher-level for the relevant branch of business, and the question whether such an agreement sets the level of minimum / guaranteed wage at different levels from that in legislation has to be assessed individually.

However, the levels of minimum and guaranteed wage set out in the collective agreement cannot be lower than the minimum and guaranteed wage at national level.

# What can be included in the remuneration

Generally, the wage and all bonuses provided in consideration for performance of work are considered a wage for the purposes of the minimum and guaranteed wage.

However, wages and surcharges for overtime work, extra pay for work on public holidays, night work or weekends or payment for work in an unfavorable working environment cannot be considered part of the minimum wage. The minimum wage also does

not include benefits that are not provided in consideration for the performance of work, especially wage compensation, severance pay, travel expenses, loyalty benefits or remuneration for carrying out on-call duty.

## Included in the remuneration

Basic salary/basic wage

Bonuses provided in consideration for the performance of work

## Not included in the remuneration (examples)

Tax-free Per-diems

Housing fees

Transportation costs

Meal costs

Travel allowances in general

Special payments (Foreign Service premium, Cost of Living allowance, Hardship premium, Country allowance, Assignment allowance)

Severance payments

Overtime payments

Payments for work during nights, weekends and/or public holidays, for the performance of work in an unfavorable working environment

Remuneration for performing on-call duty

Bonuses and benefits provided not in consideration for the performance of work (e.g. loyalty benefits)



# Working hours

The maximum number of legal working hours in the Czech Republic is generally 40 per week (plus possible overtime to the extent permitted by law).

# Mandatory registration of posted workers

Under Czech laws, both the sending employer and the accepting employer must fulfil certain statutory requirements when an employee is posted for the performance of work within the transnational provision of services in the Czech Republic.

As regards the minimum standards of working conditions and remuneration that must be guaranteed to the assigned employees, some of these minimum standards apply only when the employee is posted for more than 30 days in aggregate within a calendar year. The conditions may also differ if an employee is posted for the performance of work within the transnational provision of services by an employment agency.

According to the Employment Act, the foreign (sending) employer who posted the foreign employee to perform work in the Czech Republic is required to inform the Czech Labor Office in writing about certain information, e.g. identification details of the employee, address, travel document (passport) details, type and place of work, timeframe etc., on the day of commencement of work at the latest.

Once notified, the information must be kept updated - any change or termination of posting in the Czech Republic must be notified within 10 calendar days.  
The notification of the authorities must be performed in writing.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

\* Czech legislation does not provide any definition of business travelers. Depending on the purpose of the travel and nature of the activities performed in the Czech Republic, such individuals may not qualify as posted workers within the meaning of the Czech legislation. (e.g. employees present in the Czech Republic for training purposes) and thus they may not be subject to the registration requirements applicable to posted workers.

\*\* Registration requirement with respect to postings from non-EU countries applies in the Czech Republic.

## Determining the 12 month period

To assess whether a posting is short-term or long-term, posting periods of workers replaced in the performance of the same job at the same place are added together.

Under the transitory provisions, a posting commenced before the effective date of the amendment is regarded as a posting commenced on the effective date (i.e. 30 July 2020).

## Documents and legal representation

The sending employer is required to have a copy of documents proving the existence of the employment law relationship at the employee's place of work.

may ask to the employer to provide supplementary documentation (e.g. internal regulations, salary statement, CBA, etc.).

The documents must be translated into the Czech language and must be kept for 3 years after the termination of the assignment.

In the case of a labor audit, it is not mandatory to appoint a legal representative under Czech legislation.

A translation must be certified only upon request from the authorities. Depending on the subject matter of the labor audit, the Labor Inspectorate

The employer may be represented by its usual representative, e.g. statutory representative or HR manager. It is the employer who bears the responsibility in the case of a labor audit.

## Penalties for non-compliance

Penalties for non-compliance with the minimum wage requirement can be up to CZK 2 mil. (approx. EUR 74,000).

Penalties for non-compliance with the requirement to make the documentation proving the existence of the employment relationship between the foreign employer and the assigned employee together with translation into Czech available at the workplace in the Czech Republic can be up to CZK 500,000 (approx. EUR 20,000).

Non-compliance with the registration and other consequent requirements may result in penalties.

The amount depends on the severity, whether it was a repeated breach etc.

In general, the penalties that can be imposed on the employer differ depending on whether the employer is an individual or a legal entity.

The amount of the penalty can be up to CZK 500,000 (approx. EUR 20,000) for certain violations. Penalties are imposed by the Czech Labor Inspectorate. It is generally the employer who is liable to fines under Czech legislation.



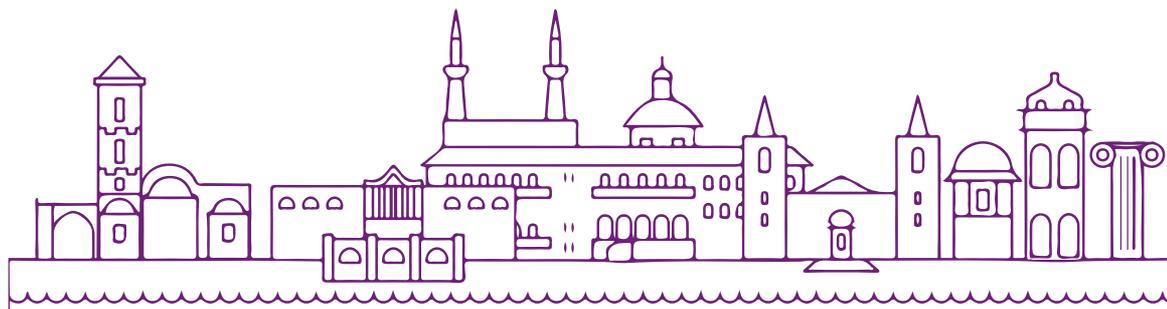
## Public sources of information

<https://www.mpsv.cz/web/en> - Official website of the Czech Ministry of Labor and Social Affairs

<https://www.uradprace.cz/web/en> - website of the Czech Labour Office

<http://www.suip.cz/vysilani-pracovniku/posting-of-workers/>

# Cyprus



## Remuneration of posted workers

### Minimum wage at national level

Currently there is no minimum wage at a national level. However, there is a minimum wage applied only to certain occupations and this is determined as a fixed amount or as an hourly rate.

### Minimum wage set through collective bargaining agreements

Not Applicable

## What can be included in the remuneration

Assignment allowances such as per diems, cost of living allowances, foreign services premiums, and bonuses are not included in the minimum wage. However, the minimum wage may include commissions.

### Included in the remuneration

Basic salary/basic wage



### Not included in the remuneration

Per-diems

Housing

Transportation costs

Meal costs

Special payments (Foreign Service premium, Cost of Living allowance, Hardship premium, Country allowance, Assignment allowance)

Bonuses

Overtime payments

Commissions

## Working hours

Cyprus has a legal limit of 8 working hours per day and 48 working hours per week.

## Mandatory registration of posted workers

Relevant approval is required prior to the commencement of the posting, and therefore a notification should be submitted to the Department of Labor, at least a week before the planned posting commences. The notification can be submitted either in person, by regular mail or e-mail.

\*A posting declaration must be submitted even if the posting lasts one day.

## Documents and legal representation

Every employer or their representative and any seconded worker to that employer must, when requested by the Cyprus Labor Department, provide any information, books, records, certificates or other documents or any other information relating to the employment relationship, posting terms, and the nature of services provided, as regulated in Law. 63(I)/2017.

The receiving company in Cyprus to which the employees have been assigned must hold and make available to the Cyprus Labor Department, upon request, the following:

- The employment contract (terms and conditions of the assignment), details of hours worked.
- The length of time an undertaking is established in the host Member State as well as the address where the host employer has its registered office or place of business.

- The place where posted workers are recruited and from which they are posted.
- The nature of the services provided, the number of clearly identifiable posted workers and the anticipated duration.

Documents must be kept for up to 6 years and they must be available in the Greek or English language. A translation must be certified only upon request from the authorities.

The Cyprus Labor Department should make an overall assessment of all factual elements to establish whether an undertaking genuinely performs substantial activities, other than purely internal management and/or administrative activities.

The law provides that in place of the employer, a representative may be appointed to provide relevant details to the authorities upon request.

## Penalties for non-compliance

Non-compliance with the provisions of Law. 63(I)/2017, may result in imprisonment for up to 2 years or to a fine not exceeding fifty thousand euros (€ 50,000) or both.

## Public sources of information

Official Labor Department URL:  
<https://bit.ly/3hgV60Q>





## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

On 1 January 2021, the Danish Posting Act ("the Act") implementing the Posting of Workers Directive 2018/957 ("PWD") in Denmark entered into force and contains significant changes to posted employees' working conditions in Denmark. The key measures focus on remuneration of posted workers and long-term postings.

As an exception to this new main rule in the Act, the employee is not entitled to be covered by Danish legislation relating to procedures, formalities and conditions when entering into and terminating employment contracts, including regulation of non-competition clauses, and contributions to supplementary pension schemes, after 12/(18) months.

## Remuneration of posted workers

The term "minimum wage" is changed to "remuneration" to enhance equality by making sure posted employees have the same remuneration as locally-hired employees. No mandatory minimum wage exists in Denmark, and the Act did not introduce this.

This obligation for equal treatment in relation to wages therefore still only applies in relation to collective bargaining agreements that the company may have signed up to.

Companies without collective bargaining agreements will consequently not be required to apply payment terms in collective bargaining agreements.

### Minimum wage at national level

In Denmark there is no statutory minimum wage, and no provision on minimum wages is included in the Act, which implements the EU Posting of Workers Directive.

Generally, this means that if an employee is posted by the home-country employer to deliver services to a Danish company in Denmark, no minimum wage will apply.

## Minimum wage set through collective bargaining agreements (or minimum wage scales)

In Denmark, pay and working conditions are typically laid down by collective bargaining agreements concluded between trade unions and employers' organizations. This system of labor market regulation is referred to as the Danish Model.

The collective bargaining agreements include provisions on the minimum wage and other working conditions. These Danish collective bargaining agreements are not of general application and will generally not apply if an employee is seconded to Denmark as mentioned above.

However, the Danish company receiving the services from the foreign employee may – if the company is subject to any collective agreements – be required to ensure or be encouraged to ensure that the minimum wage and working conditions are provided to posted employees as well. This will depend on the collective agreement in question.

If any collective bargaining agreements apply or must be followed, these are typically renegotiated every third year and this may involve a change in the minimum salary. The minimum wage set by the collective agreements may vary depending on occupation, industry, length of service, education, skills, experience, age, etc.



## What can be included in the remuneration

The remuneration includes the base salary and any mandatory allowances and fees stated in the relevant collective bargaining agreement. However, it will depend on the content of the specific collective bargaining agreement.



## Working hours

Danish legislation includes different provisions on the maximum legal working time. The legislation states that the number of working hours must not exceed 48 per week on average (including overtime) within a period of 4 months. Moreover, employees are entitled to a break if the number of daily working hours exceeds six.

With regard to night work, employees may only work 8 hours per day on average in a period of 4

months. As a general rule in Danish legislation, the working hours must be arranged in such a way that the employees have a period of rest of at least 11 continuous hours within each period of 24 hours. Danish collective bargaining agreements also include different provisions relating to working hours. Collective bargaining agreements typically state that the normal working hours are 37 per week.



## Mandatory registration of posted workers

For employers to comply with the Directive, they are required to register in RUT. RUT is an online service and the website offers information in Danish, English, German and Polish. The posting company has to set up an account before they can register. The posting company is responsible for correct information about the workplace, the work period and the person(s) performing the work.

The registration in RUT on the Danish Business Authority's site must be concluded before the work is carried out or no later than at the beginning of the activity. Any changes must be notified in RUT no later than the first working day after the change has entered into force. Changes which must be notified include a new workplace, new posted workers or a longer time period.

If the employer registers the required information in RUT, the 12 month period will be extended to 18 months and the effective date of the posted employee's entitlement to mandatory terms and conditions of employment in Denmark will be 31 December 2021 at the earliest.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

*\*According to the Act, the posting company is not required to register the posting in RUT if:*

- 1) *The duration of the performance of the service does not exceed eight days.*
- 2) *The service is performed as part of the delivery of technical plant or a technical installation, and*
- 3) *The employee is tasked with and a specialist in or qualified for fitting, installing, inspecting, repairing or providing information about a technical plant or a technical installation in Denmark.*



## Determining the 12 month period

Although the Act entered into force on 1 January 2021, it has retroactive effect from 30 July 2020. If the assignment was in place on 30 July 2020 or earlier, the 12-month period will run from 30 July 2020 at the earliest. Thus, the period prior to 30

July 2020 does not count in the 12-month period. If an employee is posted for the purpose of replacing another posted worker and does the same work at the same workplace, the total period of posting is the combination of the two posting periods, from 30 July 2020 at the earliest.

## Documents and legal representation



The law requires the sending company to register a contact person at the place of work in Denmark. The contact person has to be a person staying in Denmark during the delivery of the service, or while the work is carried out, that the authorities can contact. A permanent representative is not required.

The sending company is required to provide the assignor with the documentation for the registration in RUT. The receipt the sending company receives when notifying RUT is adequate as documentation indicating that the assignor has

been notified.

Labor audits are managed by the Danish Working Environment Authority ("the DWEA"). The DWEA can request documentation indicating the sending company's registration in RUT and documents identifying the sending company, the posted employees and the workplace.

The sending company is required by law to provide the DWEA with sufficient documentation, and it is their responsibility in the case of a labor audit. Furthermore, proof of registration in RUT should be kept available at the worksite.

## Penalties for non-compliance



Non-compliance may result in penalties issued by the DWEA, which can impose fines of DKK 10,000. In particularly serious cases the fine is DKK 20,000. Penalties are levied in the following cases:

- ① Failure to register on time or registration of incorrect information.
- ② Failure to grant the employee holiday despite it being requested and without reasonable cause.
- ③ Failure to provide documentation when required by the authorities.
- ④ Failure to provide documentation to the assignor for timely and accurate notification in RUT.

In the case of non-compliance with the remuneration requirements, the penalties will depend on the relevant collective bargaining agreement.

## Public sources of information

<https://workplacedenmark.dk/>



# estonia



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The Revised Directive 2018/957 has not yet been transposed into Estonian legislation.



## Remuneration of posted workers

### Minimum wage at national level

Estonia has a national minimum gross wage requirement. From 2021 the level of the minimum gross wage applicable to blue collar workers and other EU nationals for full time employment is set at EUR 584 per month.

The minimum gross wage has not increased compared with last year, remaining at the same level during 2020-2021.

The current minimum gross wage for highly skilled workers, whether they are EU nationals or non-EU citizens who are holders of the European Union (EU) blue card, is currently EUR 2,172 per month.

However, the employer is required to pay remuneration to a foreign worker during the period of validity of an EU Blue Card, the amount of which is at least equal to 1.5 times the annual average gross monthly salary, as last published by Statistics Estonia (the latest annual average gross monthly salary was published in March 2021).

In the following cases, the minimum gross wage for an EU Blue Card holder is currently EUR 1,795. However the employer is required to pay remuneration to a foreigner of at least the equivalent of 1.24 times the annual average gross monthly salary, as last published by Statistics Estonia (the new annual average gross monthly salary was published in March 2021).

- 1 Employment as a top specialist or a junior administrator
- 2 Employment as a top specialist in natural or technical science.
- 3 Employment as a top specialist in the health service.
- 4 Employment as a specialist in pedagogics.
- 5 Employment as a specialist in business or administration.
- 6 Employment as a specialist in information or communication, or
- 7 Employment as a specialist in the legal, cultural or social sphere.

The current minimum gross wage for a foreigner working as a top specialist, with appropriate professional training or experience for employment in the field, is EUR 2,896 per month. However, the employer is required to pay remuneration to a foreigner working as a top specialist of at least the equivalent of 2 times the annual average gross monthly salary, as last published by Statistics Estonia. (The new annual average gross monthly salary was published in March 2021).

The minimum gross wage for a foreigner working as an expert, adviser, consultant or skilled worker is EUR 1,448 per month. However, the employer is required to pay remuneration to a foreigner of at least the equivalent of the annual average gross monthly salary, as last published by Statistics Estonia. (the new annual average gross monthly salary was published in March 2021).

## Minimum wage set through collective bargaining agreements (or minimum wage scales)

The national minimum gross wage is agreed between the Estonian Trade Union Confederation and the Estonian Employers' Confederation and confirmed by the government. Collective bargaining agreements are not common in Estonia. However, some agreements can be highlighted:

### ① Estonian Healthcare Professionals' Association:

Profession	Hourly rate (EUR)
Doctors	13.30
Specialist doctors	14.40
Nurses, midwives and health care professionals	8.00
Ambulance technicians	6.80
Emergency medical technicians	7.20
Care workers	5.00

### ② Estonian Educational Personnel Union:

The minimum wage for a school teacher in 2021 is EUR 1,315 per month;

### ③ Transport and Road Workers' Union:

From 21 February 2021, the gross wage of full-time bus, trolleybus and tram drivers licensed under the Community license, with route authorization and a public service contract must be at least EUR 1,292 per month.

For illustrative purposes, please see below the remuneration applicable for the following industries:<sup>3</sup>

1. Automotive N/A
2. ITC 2,574 €
3. Construction 1,365 €
4. Oil & Gas N/A

## What can be included in the remuneration



### Included in the remuneration

Basic salary/basic wage  
Overtime payments  
Vacation payments  
Study leave

### Not included in the remuneration

Per-diems  
Housing  
Transportation costs  
Meal costs  
Special payments (Foreign service premium, Cost of living allowance, Hardship premium, Country allowance, Assignment allowance)  
Bonuses

## Working hours

The maximum legal working hours in Estonia are 8 hours per day and 40 hours per week.

<sup>3</sup> <https://www.stat.ee/en/node/183307>

## Mandatory registration of posted workers

The employer of a posted employee is required to provide the Labor Inspectorate with information concerning the posting no later than on the day the posted employee commences the performance of work in Estonia.

The registration application is available on the Labor Inspectorate's web page. The application is downloaded from the website and subsequently should be sent to the following e-mail address: [posting@ti.ee](mailto:posting@ti.ee).

Posted workers	Registration (Yes/No/Depends)
Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	No
Posting over 12 months	Yes
Business travelers*	No
Posting from a non-EU country **	No

\* A person is considered to be an employee on a business trip if the employer sends the employee to Estonia from the place of employment they have agreed on to perform work duties. This generally lasts for no more than 30 consecutive calendar days. The employee and the employer may also agree upon a longer time period for the business trip.

\*\* No, with the exception of EEA member states and Switzerland.

## Documents and legal representation



### The employer of a posted employee must provide the Labor Inspectorate with the following data concerning the posting:

- 1 the name, personal identification code or registry code, area of activity, and details of the residence or location and means of communication of the employer of the posted employee;
- 2 the name and details of the means of communication of the contact person who represents the employer of the posted employee;
- 3 the number of posted employees, their names and personal identification codes or dates of birth;
- 4 the expected duration of the posting and the scheduled start date and end date;
- 5 the name, personal identification code or registry code, area of activity, and details of the residence or location and means of communication of the contracting entity for whom the posted employee works in Estonia;
- 6 the name and details of the means of communication of the contact person who represents the contracting entity;
- 7 information about the area of activity in which the posted employee will be working in Estonia, and the address of the place of performance of work of the posted employee.

In addition to the above, the Labor Inspectorate may also demand additional documents from the employer of the posted worker.

These could include a contract of employment, working time schedule, statement on payment of wages etc. The Labor Inspectorate may request documents up to three years after the end of the employee's posting period (§ 12 (1) of the Accounting Act).

Documents in the Estonian language are not mandatory. However, translations may be required by the authorities. A certified translation must be provided only upon request from the authorities.

If the employer does not pay the employee wages, the wages should be paid by the person who ordered the service from the employer of the posted employee. The obligation should be fulfilled by the person who ordered the service from the employer of the posted employee if it is not possible to collect the wages from the employer within six months after the enforcement of the decision.

The person who ordered the service from the employer's obligation is limited to the minimum monthly wage. If in everyday economic activities the person who ordered a service from the employer of a posted employee has exercised due diligence in their relationship with the employer of the posted employee, the person is not required to pay the minimum wage.

## Penalties for non-compliance



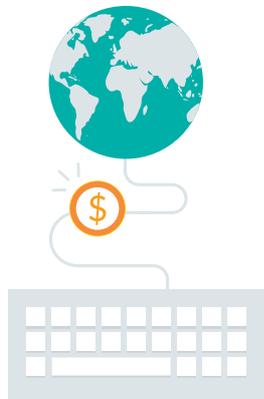
The Estonian Employment Contracts Act states that wages falling below the minimum wage established by the Government of the Republic may not be paid to an employee.

If the entity or individual providing work has not registered the commencement of employment of a worker by the deadline specified in the Estonian Taxation Act or has failed to register the termination of employment, the tax authority may set an additional deadline for registration and issue a warning to the effect that a penalty payment may be applied upon failure to register the obligation.

If an entity or individual providing work has not complied with the obligation imposed by an administrative act by the deadline stated in the warning, the penalty payment set out in the warning must be paid.

A penalty payment to enforce the performance of the obligation to register commencement and termination of employment totals 3,300 euros, i.e. 1,300 euros for the first missed deadline and 2,000 euros for the second.

## Public sources of information



Labor Inspectorate:  
<https://www.ti.ee/en/home/>

Police and Border Guard Board:  
<https://www2.politsei.ee/en/>

Estonian Tax and Customs Board:  
<https://www.emta.ee/eng>

Social Insurance Board:  
<https://www.sotsiaalkindlustusamet.ee/en>

Working Conditions of Employees Posted to Estonia Act:  
<https://www.riigiteataja.ee/en/eli/ee/502072018002/consolide/current>

# Finland



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The revised Posting of Workers Directive has been implemented in Finland by amending the Act on Posting Workers. The new legislation entered into force on 1 December 2020 with the exception of the provision concerning posted worker's notice. This provision will enter into force on 1 October 2021. In terms of ongoing postings, a 12-month transition period applies.

## Remuneration of posted workers

The revised directive provides that the terms and conditions of universally applicable collective agreements must be guaranteed in all sectors, not solely in the construction sector.

In Finland, posting employers were already required before the amendment to pay the posted worker the remuneration set out in the universally applicable collective agreements in all sectors.

Under the original Directive 96/71/EC, the employer was required to guarantee the posted worker the host country's minimum rates of pay. Under the revised directive, the posted worker will receive remuneration paid to a local worker following the principle of equal treatment.

The same remuneration principle of the revised directive was de facto already applied in Finland before the amendment, since it was required that the posted workers should be paid according to the pay scales of the universally applicable collective agreements.

## Minimum wage at national level

There is no statutory minimum wage in Finland.

## Collective bargaining agreements

The wages are set in the generally applicable collective agreements concluded between the Finnish employers' unions and trade unions.

The wages are determined for different industry/occupational sectors based on employees' professional skills, experience or other types of information such as the geographical position of the workplace.

There are also some industry/occupational sectors without a binding collective agreement, which in practice means that there are no minimum wage rules applicable.

When there is no generally applicable collective agreement in the sector, the posted worker should be paid at least a reasonable normal remuneration if the remuneration agreed between the employer and worker is significantly lower than this.

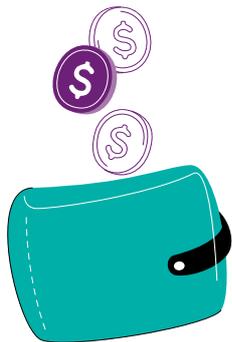
The average salary of the occupational sector in question or non-generally applicable collective agreement can be used to determine the reasonable normal remuneration.

**For illustrative purposes, please see below the remuneration applicable for the following 5 industries (the salaries above are only for illustrative purposes; the scope of application of the collective agreements varies and the**

**agreements include multiple rules concerning compensation):**

- ① Automotive (Collective Agreement between the Technology Industries of Finland and the Industrial Union): EUR 9,30 - EUR 13,74 (hourly rates) / EUR 1 621 – EUR 2 395 (monthly salary) (depending on the job requirement category)
- ② Telecom (Collective agreement of the ICT sector and salaried employees) EUR 1 472 – EUR 4 590 (monthly salary) (depending on the skills and the work requirements)
- ③ IT (Collective agreement by the IT service sector) EUR 1 661 - EUR 4 084 (monthly salary depending on task category and skills classification)
- ④ Construction (Collective agreement on building construction) EUR 10,90 – EUR 17,24 (hourly rates) (depending on the skills of the employee)
- ⑤ Oil&Gas (Collective agreement of the oil, gas and petrochemical products industry) EUR 1 859 – EUR 2 314 (monthly salary) (depending on the work requirements)

## What can be included in the remuneration



### **Included in the remuneration**

- ① Base salary based on categorization of employees into pay groups as provided for by the relevant Finnish collective agreements
- ② Overtime payments
- ③ The pay which the posted workers must receive for the paid annual holidays corresponding to the wage to which those workers are entitled during the reference period
- ④ The travel, accommodation and board costs when a posted worker is temporarily posted from his or her regular place of work in Finland to another workplace or worksite in Finland or abroad (intra-posting travel expenses)

When comparing the amount paid to the posted worker and the required remuneration in Finland, special compensations and allowances payable due to the worker's posting are considered part of the worker's pay unless they are paid in reimbursement of actual costs incurred because of the posting.

Simultaneously with the implementation of the revised directive, Finland introduced a new protective provision concerning travel and accommodation costs arising from a worker's posting to Finland. It is stated in the Directive that the employer should reimburse these costs in

accordance with the national law and/or practice applicable to the employment relationship (usually the law of the home country).

However, in accordance with the new provision in Finland if the posted worker is not entitled to protection on the basis of the home country's rules, or the protection would be substantially below what is considered normal and reasonable in Finland, the provisions of the applicable Finnish collective agreement apply, i.e. the cost must be covered in accordance with the Finnish rules.

## Working hours

Under the general provision of the Working Hours Act, regular working hours should not exceed eight hours a day or 40 hours a week. Averaging working hours over a longer period is allowed under the act.

There may be stricter limits on the maximum regular working hours set in universally applicable collective agreements.

## Mandatory registration of posted workers

The posting undertaking is required to submit an online notification to the occupational health and safety authority before the work begins.

Notification is not required if the undertaking is posting workers in an internal transfer within a group of undertakings for no more than five working days<sup>4</sup>, except when the undertaking operates in the construction sector. In the construction sector the notification must always be given.

The amendments to the Act on Posting Workers expand the posting company's obligation to submit an advance notification of the posting of workers.

In future, the posted workers must be identified (name, personal ID, tax ID) in the notification. This provision will come into effect on 1 October 2021. Currently, the number of the workers posted is the only information that must be given on the posted workers.

If the information that has been notified changes significantly, a requirement for the work to continue is that the posting company should submit a supplementary notification as soon as such changes occur. A supplementary notification is

always needed when the representative, the contact details or the place of work changes.

Additionally, the amendments introduce the long-term posting. Long-term posting means work lasting for a minimum of 12 months.<sup>5</sup> Long-term postings are subject not only to mandatory employment conditions as defined in the Act on Posting Workers, but also to additional employment conditions.

The 12-month time limit may be extended to the maximum of 18 months. The additional notification must be made by the employer before the 12-month limit is reached, if the posting company wants to extend the time period after which the more extensive set of terms apply.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting*	Depends
Shortening of a posting*	Depends
Posting over 12 months	Yes
Business travelers**	No
Posting from a non-EU country	Yes

*\*It has not been specified in the Act on Posting Workers which changes should be considered significant and for which a supplementary notification is required.*

*\*\*Business travelers do not have to register. Business travelers in this context means individuals who do not provide services in Finland and are not subcontracted, internally transferred nor sent as temporary agency workers to Finland (e.g. attending conferences, meetings, fairs and following training courses can be considered business travel).*

## Determining the 12 month period

For ongoing postings, there is a transition period of 12 months before the amended Posted Workers Act is applied, e.g. the new provision on long-term postings etc. The application of the additional employment conditions in relation to long-term

postings will take place from 1 December 2021 at the earliest, as the calculation of the minimum time of 12 months began on 1 December 2020, when the amendment entered into force.

## Documents and legal representation

The posting undertaking should have a representative in Finland whom the posted worker and the authorities can contact at all times during the posting. The representative may be a legal entity or

an individual. A representative need not be selected if the posting of the worker is no more than 10 days in duration.<sup>6</sup>

<sup>4</sup> When determining the duration, the posting period and all previous posting periods for the last four months during which workers of the same posting company have been working in Finland should be taken into account.

<sup>5</sup> When determining the fulfilment of the long-term posting time limit of at least 12 months, the durations of several posting periods should be added together if the posting employer replaces the posted worker with another posted worker performing the same work in the same place of work. In other words, long-term posting will not be assessed on an employee-by-employee basis. The posting undertaking is required to inform the worker whom it has posted if the same work has been performed by a worker who has previously been posted to the same workplace. The employer must also notify how long the posting period of the previous employee or employees has lasted.

**Posting undertakings should keep certain information available in written form in Finland for the entire duration of the posting:**

- ① identifying details of the posting undertaking;
- ② identifying details of the posted worker;
- ③ explanation of the posted workers right to work and
- ④ information on the posted worker's terms and conditions of employment.

**If the posting of a worker is for more than ten days, the posting undertaking should have available also:**

- ① a record of working hours;
- ② payslips and
- ③ document issued by a financial institution showing the wages paid.

The information may be kept in electronic format, but it must be available for immediate use. Before the work begins in Finland, the posting undertaking must notify the contractor who is in possession of the aforementioned information during the posted worker's posting.

The information must be kept available two years after the posted worker's work in Finland has ended. The information can be stored abroad, but it must be forwarded to the authorities if requested.



## Penalties for non-compliance



A negligence fee may be imposed on the posting company if the posting company fails to report the posting of workers, performs the notification late or if the notification is inadequate.

A negligence fee may also be imposed if the posting company fails to provide a supplementary notification on significant changes, fails to ensure the selecting of a representative in Finland or if the representative does not have the required right to act on behalf of the company or cannot be reached by the authorities.

Furthermore, a negligence fee may be imposed if the posting company fails to keep the required information available for the authorities.

In addition to the posting company, a negligence fee may also be imposed on the contractor or in the construction sector on the builder and the main contractor if they fail to comply with their obligations.

The amount of the negligence fee ranges from EUR 1 000 to EUR 10 000 and is imposed by the occupational health and safety authority. When determining the amount of the negligence fee, the nature of the negligence, its extent and its frequency are taken into account.

The negligence fee is imposed on a legal entity. The negligence fee can be imposed on an individual only if he or she has neglected their obligations deliberately or out of carelessness.

If the posting undertaking does not comply with the minimum wage requirement, i.e. does not pay the minimum wage set in the generally applicable collective agreement, the posted workers may claim the unpaid wages.

The penalties for employment offences, violation of working hour regulations and violation of annual holiday regulations are set out in the Criminal Code and in other relevant acts.

## Public sources of information

Ministry of Economic Affairs and Employment of Finland : <https://tem.fi/en/posted-workers>

Ministry of Social Affairs and Health : <https://stm.fi/en/posted-workers>

Occupational Health and Safety Administration: <https://bit.ly/2R60U2K>

Act on Posting Workers 447/2016 : <https://bit.ly/3bkYUuf>

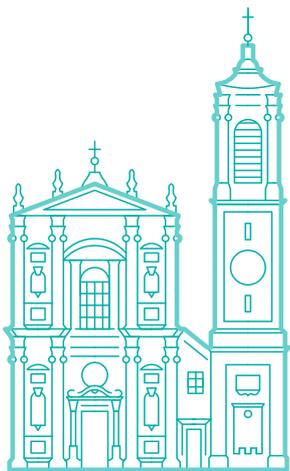
(Translated into English, legally binding only in Finnish and Swedish)

# France



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The revised directive was transposed into French legislation and applies as from 30 July 2020.



## Remuneration of posted workers

The foreign company must comply with the minimum legal and collective agreement's provisions. French legislation has implemented more minimum requirements than the Core Provisions of the 96/71/EC Directive on Posting of Workers.

For instance, foreign employers who post workers to France must respect French employment and labor legislation concerning the right to strike, and against undeclared work.

Moreover, "Minimum wages" includes the legal minimum wage and any other minimum wage provided in a Collective Bargaining Agreement (bonus, indemnities, allowances or compensations, salary increase, etc.)

### Minimum wage at national level

From January 2021 the legal minimum wage is EUR 1,554.58 gross per month for a full-time employee working 35 hours per week. Hours worked above 35 per week are regarded as overtime and should lead to additional compensation.

## Minimum wage set through collective bargaining agreements

There are various CBAs, since there is usually one per industry. A CBA applies mandatorily to a company falling within its scope.

The CBA defines the minimum wages according to the employee's position within the company.

For illustrative purposes, please see below the remuneration applicable for the following industries:

- 1 **Automotive** : 18,816 € / 19,008 € / 19,212 € / 19,464 € annually depending on the level applied
- 2 **Telecom** : 20,620 € / 21,298 € / 21,184 € annually depending on the level applied
- 3 **IT** : 20,492 € / 21,503 € / 22,606 € annually depending on the level applied
- 4 **Construction** : 27,274 € / 35,352.38€ / 36,804.35€ / 37,690.84€ annually depending on the level applied



## What can be included in the remuneration

According to French regulations, assignment related allowances can be part of the minimum wage (i.e. COLA, foreign service premiums, and bonuses).

expenses directly borne by the employer like travel expenses, accommodation or meals, are not taken into account in determining the minimum wage and cannot be paid for by the employee.

However, amounts paid to the assignee to compensate for expenses actually borne, as well as



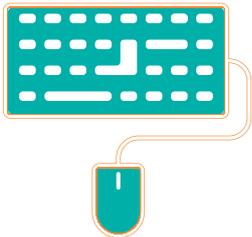
## Working hours

Generally speaking, the legal working time in France is 35 hours/week. The maximum daily legal working time is 10 hours. The maximum working

time/week is 48 hours. However, the average weekly working time cannot exceed 44 hours over any period of 12 consecutive weeks.



## Mandatory registration of posted workers



Prior to the beginning of a temporary assignment to France, a specific declaration (déclaration préalable de détachement) should be sent by the home-country employer to the French labor inspectorate within 48 hours of the beginning of the assignment. The declaration can only be completed on the "SIPSI" online portal

(<https://www.sipsi.travail.gouv.fr>).

The French purchaser and contractor must ensure that the foreign service provider has fulfilled the obligation.

Currently the registration cannot be outsourced to a third party.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

*\*Business travelers perform an activity on their own account (e.g. participating in business meetings, mentoring seminars, meetings with clients outside the context of a service agreement, training courses in another of the group's establishments) and the posting of employees on the employer's account does not require any prior declaration, nor the appointment of a representative.*

*Depending on the purpose of the trip and the nature of the activities performed in France, for example to perform duties under a contract for the provision of a service, there is obligation for PWD registration.*

*\*\*Any foreign employers (both EU and non-EU) planning to send employees to France must complete an online Prior Declaration of posting of workers before the start of the service and appoint a representative who must be present on French territory for the duration of the posting.*



## Determining the 12 month period

The period from the start of the posting will be taken into account even for periods prior to the implementation of the directive into local legislation.



## Documents and legal representation

In addition to the Prior Declaration, the foreign company must appoint a representative on French territory. This representative should communicate with the authorities on behalf of the employer and hold a copy of all the documents that the authorities could ask for.

All these documents must be translated into French and should be kept for 5 years after the termination of the assignment.

This translation requirement applies for several documents. Firstly, it applies to documents attesting that the social and economic situation of the employer is compliant with the law. Secondly, it applies to documents attesting that the minimum

requirements are fulfilled concerning the employees' work conditions.

Employers must be aware that documents such as work permits, contracts of employment or payslips must be translated into French. In the case of an audit, the Labor inspector must be able to identify clearly the employee's minimum wages, supplementary remuneration for overtime, working days, working hours, and annual leave. Proof of payment of the salary can also be required.

For activities in the building and public works sector, a professional identification card is required for all posted employees.



## Penalties for non-compliance



In the case of non-compliance with the above requirements, French regulations provide for different penalties depending of the type of offense.

They range from fines of € 7,500 (and € 15,000 in the case of a new offense within a period of one year after the first offense) to criminal prosecution.

If the service provider fails to declare the posted worker, if the information transmitted is incorrect and/or incomplete, or if the purchaser and the contractor fail to make the necessary checks on the foreign service provider, they are subject to an

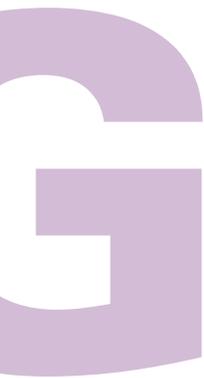
administrative fine of maximum € 4,000 per posted worker (€ 8,000 in the case of repeat offenses) up to a maximum of € 500 000.

Furthermore, failure to comply with the posting of workers obligations, can lead to penalties such as administrative fines, the obligation for the contractor and the purchaser to provide the posted workers with decent accommodation, or financial solidarity for the payment of the minimum wages, social charges and/or French taxes and/or the suspension of the contract for services.

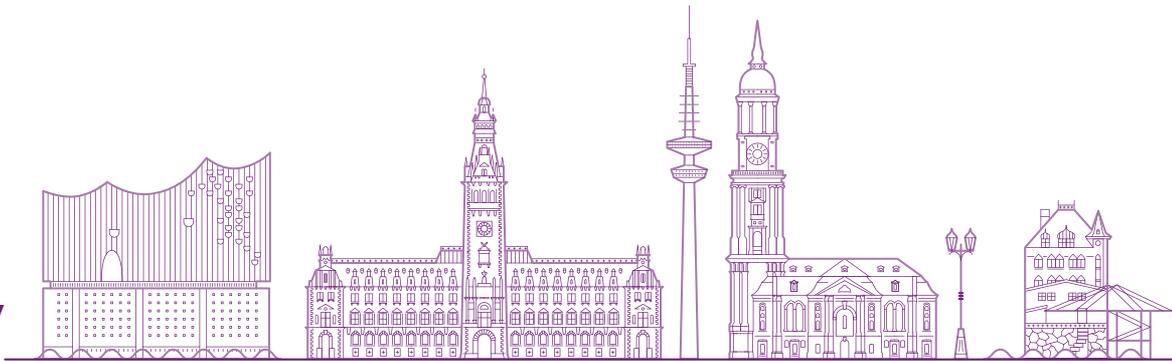


## Public sources of information

[www.travail.gouv.fr](http://www.travail.gouv.fr)  
[www.legifrance.gouv.fr](http://www.legifrance.gouv.fr)  
[www.service-public.fr](http://www.service-public.fr)



# Germany



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The new corresponding bill to amend the German Act on the Posting of Workers ("AEntG") adopted by the federal government, was approved by Parliament on 18 June 2020. This came into force on 30 July 2020. The new rules apply to all postings, even if they started before 30 July 2020.

## Remuneration of posted workers

As well as minimum wage rates, total remuneration also needs to be observed, which consists of the following components:

- 1 Base salary
- 2 Any remuneration components which are granted depending on the performance of work duties, qualification, and/or the professional expertise of the employees
- 3 Any other allowances such as overtime allowance and benefits-in-kind.

The extended working conditions must, however, be laid down in generally binding collective bargaining agreements (hereinafter, "CBAs").

Only if the sending company falls within the scope of a generally binding CBA in Germany, will this trigger the compliance requirements of the revised PWD.

Under certain conditions, posted workers will be entitled to reimbursement of costs incurred under the German rules as long as they are more beneficial.

Certain activities are exempt from the new rules if they are only performed to a minor extent. The rules will not apply to the road transport sector.

## Statutory minimum wage at national level

Germany has a minimum wage requirement set at national level.

On 1 January 2015, Germany's law on the statutory minimum wage became effective. Consequently, a general minimum wage requirement has been implemented for all occupations and affects all individuals working in Germany regardless of their nationality and the location of the employer.

The current statutory minimum wage since 1 January 2021 is EUR 9.50 (gross)/working hour. Since 2017 the minimum wage has applied to all sectors of work, even if a bargaining agreement had previously set a lower amount.

In addition, there are minimum wage requirements for agency workers which are as follows:

- 1 In the Western provinces: Since 1 September 2020 EUR 10.15 (gross)/working hour
- 2 In the Eastern provinces: Since 1 October 2020 EUR 10.10 (gross)/working hour
- 3 Federally from 1 April 2021 it will increase to EUR 10.45 (gross)/working hour and from 1 April 2022 to EUR 10.88 (gross)/working hour.



## Minimum wage set through collective bargaining agreements (or minimum wage scales)

In addition, there are minimum wage requirements in generally binding collective bargaining agreements which are often higher than the nationwide statutory minimum wage requirements and which, however depend on the industry and occupational group.

Sectors covered by federal generally binding collective bargaining agreements:

- Construction industry
- Waste industry including road cleaning and winter services/road clearance
- Training services pursuant to the Social Security Act
- Roofing trade
- Electrical trade
- Cleaning services
- Scaffolding trade
- Painters' and varnishers' trade
- Nursing care sector
- Chimney sweeps' trade
- Stonemasons' and stone sculptors' trade

For illustrative purposes, please see below the remuneration applicable for the following 5 industries:

- ① Construction - Only this industry is covered by a generally binding collective bargaining agreement. The applicable remuneration for construction activities is 12.85 EUR per hour (lowest tariff group).
- ② Automotive, Telecom, IT, Oil&Gas - Posted workers in these industries are subject to a statutory minimum wage of 9.50 EUR per hour. Independent operational units of companies belonging to other industries (e.g. oil&gas) may fall within the scope of a generally binding collective bargaining agreement of a different sector (e.g. construction) depending on the predominant performed activities.

Long-term postings lasting longer than 12 (or 18) months could be subject to local generally binding collective bargaining agreements.

## What can be included in the remuneration

Besides the regular salary received during an assignment, any payment which is perceived as an equivalent for the normal performance of services, but not for rewarding special purposes, can be considered as part of the minimum wage.

Consequently, if bonus payments fulfil this criterion, they can only be considered in the month in which they are paid out.

The AEntG prevents the offset of payments received for board, lodging, travel, or accommodation against the remuneration granted to posted workers.

If the terms and conditions of employment do not specify which components of a posting allowance are paid as reimbursement of posting costs or which components of the posting allowance are part of the remuneration, it shall be irrefutably presumed that the entire posting allowance is paid as reimbursement of posting costs.

### Included in the remuneration

Basic salary/basic wage

Standby times as long as they are paid for the performance of the work owed

Posting allowances if not paid to reimburse costs actually incurred as a result of the posting.

### Not included in the remuneration

Per-diems

Housing

Transportation costs

Meal costs

Special payments (Foreign Service premium, Cost of Living allowance, Hardship premium, Country allowance, Posting allowance if purpose not specified)

Overtime payments

Bonuses





## Working hours

In Germany, the standard working hours are 8 hours/day, or the equivalent of 48 hours/six days per working week



## Mandatory registration of posted workers

In terms of administrative requirements, in the case of assignments to Germany, there is a formal notification which has to be submitted to the Customs Authority in the case of employment in certain industries as well as in the case of temporary agency work.

Generally, the home employer has to file this notification prior to the performance of work. However, in the case of temporary agency work from foreign lessors, the obligation falls on the lessee of leased employees.

In general, foreign-domiciled employers which post workers to Germany to carry out work or to provide services are required to register the posting. In Germany, different types of registration obligations apply depending on the industry or branch of the employer.

A registration is only required if a generally binding collective bargain agreement is in force or if the employer works within an industry which is considered especially susceptible to illegal employment. Those industries are named conclusively in sec. 2a of the Act to Combat Illegal Employment (Schwarzarbeitsbekämpfungsgesetz) and are the following: (re-) construction, the waste industry including road cleaning and winter services/road clearance, training services under the Social Security Act, the roofing trade, the electrical trade, the scaffolding trade, painting and varnishing, nursing care, the chimney sweep trade, the stonemasons' and stone sculptors' trade, catering and hotels, personal transportation, logistics and transportation of commercial goods, the exhibitor

trade, forestry, cleaning and the facility management industry, fair construction, the meat industry and prostitution.

In relation to content and operational process, both registration procedures are identical. The registration needs to be submitted at least the day before the employee starts performing work in Germany. As the competent authority, the German Customs (Zoll) operates an online-tool for the purpose of registration applications. It is possible to register several employees within one notification. Moreover, the employer needs to ensure and guarantee compliance with the rules of applicable generally binding bargaining agreements.

Registration is only required for posting to certain industry branches (always for the construction industry and transport). The applicable industry depends on the activity of the employer. If the employer is, for instance, a construction company, the employee should always register (even if the employee is an IT specialist).



### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months*	Depends
Extension of a posting*	Depends
Shortening of a posting	No
Posting over 12 months**	No
Business travelers***	Depends
Posting from a non-EU country **	Yes

\* Depends on whether the posting falls within one of the relevant sectors and/or collective bargaining agreements. Exemptions may apply for specific industries if the employee's monthly income is above 2.958 EUR.

\*\* A notification of another 6 months is possible if the posting unexpectedly lasts longer than 12 months, to be exempt from additionally applicable German working conditions.

\*\*\* German law does not differentiate between posted workers and business travelers. Therefore, any employee performing work or providing services in Germany – even if only for a day – could be considered as a posted worker subject to registration obligations. However, if the employee does not perform actual work or services but visits Germany for business reasons only, he/she does not have to comply with any registration requirements. The registration requirement depends on whether the posting falls within one of the relevant sectors and/or collective bargaining agreements. Exemptions may apply for specific industries if the employee's monthly income is above 2.958 EUR.

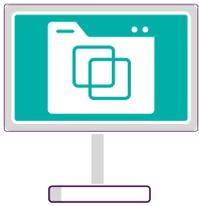
\*\* Postings from non-EU countries are subject to the same registration requirements as applicable to postings from EU countries. The German Posted Workers Act (AEntG) the Minimum Wage Act (MiLoG) and the Temporary Work Act apply to both EU/EEA and non-EU/EEA nationals

## Determining the 12 month period

The period from the start of the posting will be taken into account for periods prior to the imple-

mentation of the posting directive into German legislation.

## Documents and legal representation



The employer is subject to various retention and availability obligations. In particular, the employer is required to keep and store documents related to the posting such as the employment contract, payslips, proof of payment, time sheets, and, in the case of applicability of a generally binding collective bargain agreement, the proof of compliance with its rules and the proof that the employer pays social security contributions correctly.

A contact person in Germany must be indicated, who should receive documents and notes, as well as communicating with the authorities. Information on the legal representative of the company does not need to be indicated in the registration form.

Documents must be kept for 2 years after the termination of the assignment at the indicated storage place. In principle, these should be available in the German language.

Moreover, the employer posting the employee is required to name a German address for formal deliveries. The authority reserves the right to request further documents, if necessary.

Documents are usually accepted in English; however, this is at the discretion of the authority as the law specifically requires that documents should be kept in German. A certified translation is not required.

## Penalties for non-compliance



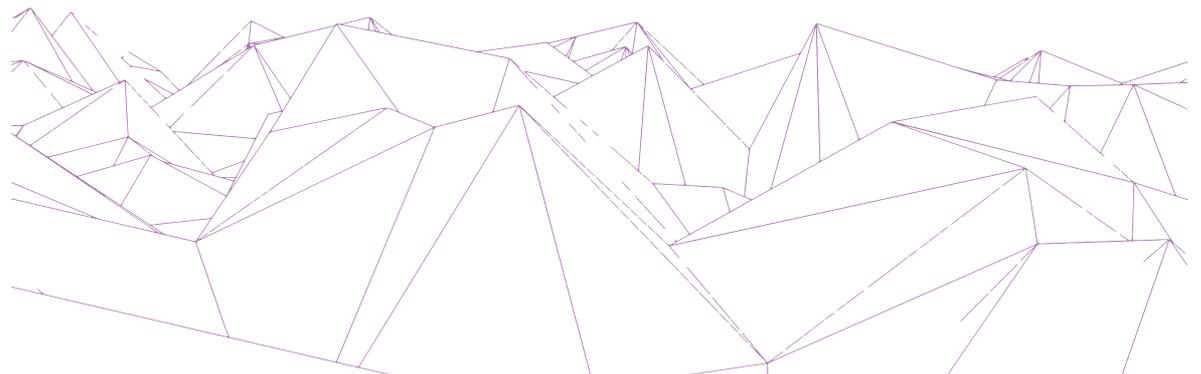
In the case of non-compliance with the minimum wage or notification requirements certain penalties are applicable:

- For non-payment or delayed payment of the minimum wage – up to EUR 500,000
- For non-compliance with the notification obligations – up to EUR 30,000.

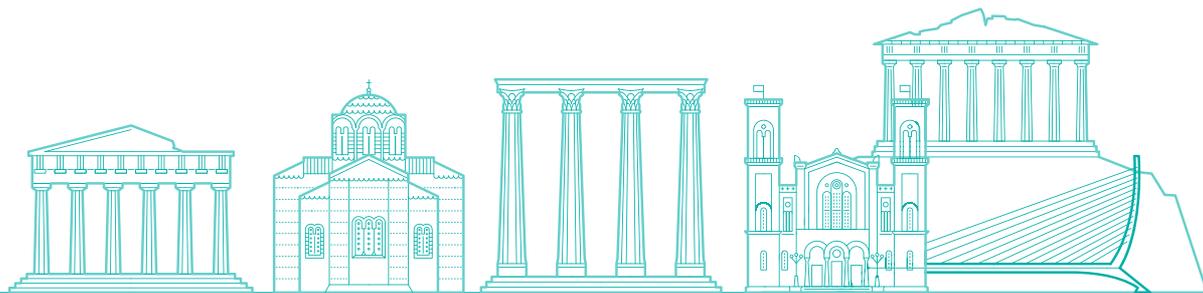
Further penalties such as withdrawal of business license or exclusion from public procurement are possible depending on the degree of severity.

## Public sources of information

<https://bit.ly/3y4hqk9>



# Greece



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 has not yet been implemented in Greek legislation.

## Remuneration of posted workers

### Statutory minimum wage at national level

The national minimum full time employment monthly salary currently applicable in Greece is EUR 650 gross, and the national minimum daily wage is currently EUR 29.04 gross.

The above minimum salaries/wages apply irrespective of the employee's/worker's age, and increases are provided on the basis of the prior term of service. The minimum gross monthly salary and daily wages are expected to be readjusted during 2021.

Further, a married employee whose employer is, member of trade unions participating in the conclusion of the National General Collective Labor Agreement, is also entitled to a marriage allowance (which is equal to 10% of the minimum basic salary).

### Minimum wage set through collective bargaining agreements

As well as the above minimum national salary/wage, for certain occupations there are Sectoral Collective Labor Agreements, which set out minimum wages for the covered personnel.

(However, the number of Sectoral Collective Labor Agreements is currently limited). If the personnel do not fall within any Sectoral Collective Labor Agreements, the national minimum salaries/wages above apply.

## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage

### Not included in the remuneration

- 1 Per-diems
- 2 Housing
- 3 Bonuses
- 4 Meal costs
- 5 Special payments (Foreign Service premium, Cost of Living allowance, Hardship premium, Country allowance, Assignment allowance, Cost of Living allowances)
- 6 Transportation costs
- 7 Overtime payments

## Working hours

The minimum salary for employees is determined as a fixed amount on a monthly basis, while the minimum wage for workers is determined on a

daily basis. The maximum legal working hours in Greece are 8 hours per day, or the equivalent of 40 hours per week.

## Mandatory registration of posted workers



The sending company must file with the employment authorities of the place of provision of the employees' services, at the latest by the commencement of the assignment and irrespective of the latter's duration:

- 1 A written declaration setting out certain details (for instance, details of the sending company, including details of its legal representative and representative in Greece during the assignment period, address/addresses where the seconded employees will provide their services, details of the receiving company etc.).
- 2 A list of seconded employees setting out certain details (personal details of the seconded employees, daily and weekly working hours, remuneration etc.).

The above documents can also be maintained, filed and forwarded electronically, but the electronic system is not yet in place in Greece. Thus, the submission is done either in person, by regular mail, facsimile or e-mail.

In the case of change of any of the details set out above to be included in the list of seconded employees, an amending list must be filed within fifteen days from the date the change becomes effective.

Further, in the case of change or amendment of the working hours or of the organization of the working schedule, an amending list must be filed at the latest before the change/amendment comes into force and before the commencement of the seconded employee's work.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	No
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

*\*A definition of the term „business traveler“ does not exist but the term generally covers employees travelling for business purposes. Registration requirements arise if combined with secondment.*

*\*\* Based on a written reply of the Ministry of Employment to a particular query. The issue should be discussed and confirmed on a case by case basis with the appropriate employment office. Immigration requirements will also arise in this case.*

## Documents and legal representation

Presidential Decree 101/2016 applies to seconded employees, i.e. employees assigned to Greece by employers registered in the European Union or in the European Economic Area to work locally within the context of cross border provision of services. This legislation does not apply to merchant sailors.

Presidential Decree 101/2016 provides that the sending company must appoint a representative in Greece during the secondment period, who will act as the liaison between the sending company and the authorities.

Presidential Decree 101/2016 requires the sending company to have (either in hardcopy or electronically) the following information available at the employee's place of work:

.....  
Employment agreement or any other equivalent document.  
.....

Payslips or other documents evidencing payment of salary.  
.....

Documents evidencing the employee's presence at work setting out the time of commencement and end and the duration of the daily working hours.

The above requirement applies for up to two years following the end of the assignment (or more in special circumstances, such as in the case of lawsuits), whereas the sending company must forward to the authorities, upon the latter's request, copies of the above documents (in either English or Greek) within fifteen days from the receipt of the related request.

Finally, a copy of the list of seconded employees (to be filed with the relevant employment office by the sending company and authenticated by the employment authorities of the place of provision of



the seconded employees) must be posted in a prominent place on the receiving company's premises.

Document are only filed in Greek. Supporting documents can be maintained in other languages, but an official translation into Greek is most likely to be requested in the case of an audit. A certified translation is normally required.

Upon the the authorities' request, the receiving company is also required to provide any information and also reply to any request from the authorities aiming to assist them to assess compliance with the provisions of the Decree, otherwise penalties apply.

## Penalties for non-compliance

For non-compliance with the notification and minimum wage requirements the employer could face temporary cessation of operations, monetary penalties or even imprisonment in serious cases.

Compliance with the obligations set out above is assessed by the employment authorities ("Σώμα Επιθεώρησης Εργασίας" – "Σ.ΕΠ.Ε.") which, if deemed necessary, can also cooperate with other authorities (including the social security authorities).

Non-compliance with the requirements can lead to administrative penalties, which can be imposed on

the sending company and/or the receiving company (i.e. a penalty of EUR 2 000 per secondee, with the exact amount depending on various factors, such as the severity and frequency of violation, whether any similar violations have also been assessed, number of employees and size of the company, degree of fault etc.).

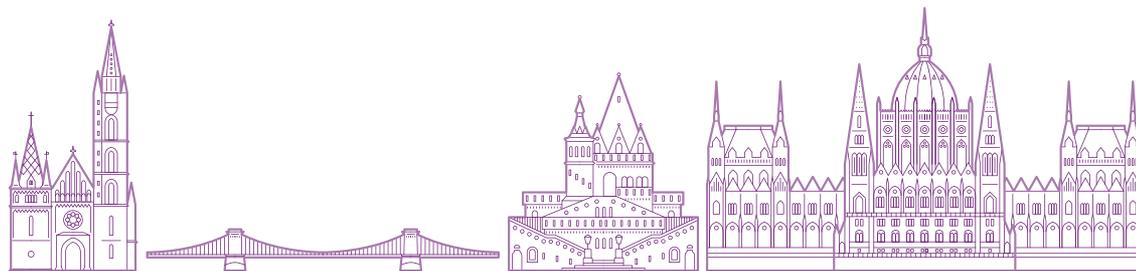
These penalties are imposed by the employment authorities ("Σώμα Επιθεώρησης Εργασίας" – "Σ.ΕΠ.Ε").

## Public sources of information

Information on the above issues can be found (in Greek) on the official website of the Ministry of Labor. Further, the applicable laws (and other sources of legislation, such as Ministerial Decisions) can also be found on the Official Government Journal's website and other legal databases (all in Greek).



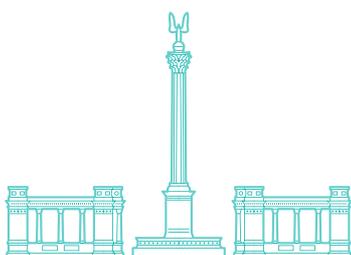
# ungary



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The rules of Directive 2018/957 have been implemented in Hungary as of 30 July 2020 in Act I of 2012 on the Labor Code, Section 295-297.

The new legislation only applies for assignments starting as from that date (Directive 96/71/EU is applicable for postings which were in place before 30 July 2020).



## Remuneration of posted workers

### Minimum wage at national level

The minimum wage in Hungary normally changes on an annual basis, in January each year. This year the minimum wage was announced only at the end of January and is applicable as from February 2021.

Based on the government's current plans, the below indicated amounts might be revised during the year.

The minimum wage is determined on a monthly, weekly, daily and hourly basis. As from February 2021 the minimum wage is HUF 167,400 (approximately EUR 510).

In addition, an increased minimum wage applies to employees with at least secondary school education or working in a position requiring intermediate professional qualifications, which is HUF 219,000 in 2021 (approximately EUR 660).

### Minimum wage set through collective bargaining agreements

There are only very few public collective bargaining agreements extended nationally to a whole sector. Most of these agreements (where they exist) are kept confidential within the relevant industry or

companies. CBAs can define a higher base salary than the minimum wage. However, only nation-wide CBAs are publicly available: <http://www.mkir.gov.hu/kiterjesztett.php>

## What can be included in the remuneration

### Included in the remuneration

- 1 Basic salary/basic wage
- 2 Overtime payments
- 3 Bonuses
- 4 Housing
- 5 Meal costs
- 6 Transportation costs

### Not included in the remuneration

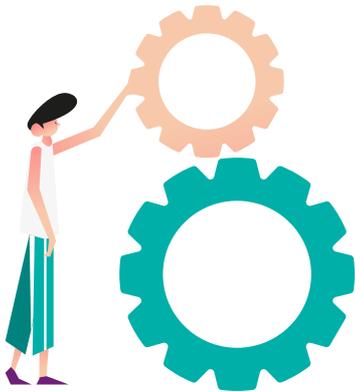
- 1 Per-diems
- 2 Special payments (Foreign Service premium, Cost of Living allowance, Hardship premium, Country allowance, Assignment allowance, Special Pension Allowances)

## Working hours

As a general rule the maximum legal working time in Hungary is 12 hours per day and 48 hours per week.

## Registration requirements.

If an employer based abroad temporarily post its employees to Hungary to carry out work within the framework of an assignment agreement and a transnational agreement between the home and the host company, both the host and home companies have different registration and documentation liabilities.



First, the Hungarian host company is liable to complete and file the so called '21T104' form with the Hungarian tax authority within a maximum of 30 calendar days from the start of the assignment.

This document serves for the registration of a foreign individual posted to Hungary and the (posting) foreign employer as well.

It has to be submitted with a registration on the Hungarian Government Portal with the Hungarian Tax Authority within special software developed by them; consequently no website is available for this.

The obligations should be fulfilled electronically (in Hungarian or English) via the labor inspectorate website of the Hungarian Ministry of National

Economy. The following information is required to fulfil the registration:

- 1 The foreign company's information (e.g. official name, headquarters);
- 2 Contact details of the foreign company's representative. (The representative should be an individual who is able to represent the foreign company in relations with the Hungarian Authorities any time upon request).
- 3 Personal information of the individual (name, start and end date of assignment etc).
- 4 Information relating to the activity of the assigned employee

The registration should be filed by the foreign (posting) company by no later than the first Hungarian workday of the employee. (The Hungarian company may also file the registration on the foreign company's behalf by this deadline). Prior to the start of the posting, the Hungarian company should inform the foreign company about the relevant Hungarian labor law requirements.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

\*Business travelers are not required to register if they only attend meetings and visit facilities, etc. However, if they perform actual working activity in Hungary, registration is necessary.

\*\* Assignment from non-EEA countries should also be reported to the Hungarian Ministry of National Economy in e-mail format, providing the information listed above.



## Determining the 12 month period

The period of assignments which were in place before the Directive was transposed into local legislation counts when determining the 12 month

period. The periods are cumulated if an individual is posted for the purpose of replacing another posted worker.



## Documents and legal representation



It is also a requirement to keep and, upon request of the Hungarian tax authority, provide the following documentation concerning the assignee during the period of the employee's Hungarian assignment and for a further 3 years following the end of the assignment:

- employment contract
- timesheets
- proof of payment of the employment income.

The relevant authorities also retain the completed registration form for 3 years after its submission. Documents should be available in the Hungarian or English language. A certified translation is not

required. The indicated documents should be available in the case of a labor audit for up to 3 years following the end of the assignment. Appointing a legal representative is not mandatory in this process.

If the employer cannot produce the documents on request from the authority, penalties can be applied as from the fifth business day.

Penalties also apply if the inspectors are not able to make a copy of the documents or records at the place of inspection, so the originals must be physically available at the place of work.



## Penalties for non-compliance



For failure to file the form T104, the Hungarian tax authority may impose a fine of up to HUF 500,000. Responsibilities are shared (but not joint and several) between the home and host company.

For failure to fulfil the posting registration requirement, currently no special penalty exists.

However, in the case of a labor inspection the relevant authority may require fulfilment with the above obligations and may levy penalties for non-compliance (including for missing the registration deadline, missing documents or for

failure to respect the minimum standard requirements).

In the case of non-compliance the authority may impose a penalty fee of at least HUF 30,000 and up to HUF 10,000,000.

The amount of the penalty depends entirely on the authority's discretionary decision. (However, the number of employees at the host company and whether the infringement is a repeat offense can affect the decision).



## Public sources of information

**Information about collective bargaining agreements:** <https://bit.ly/3blPaQq>

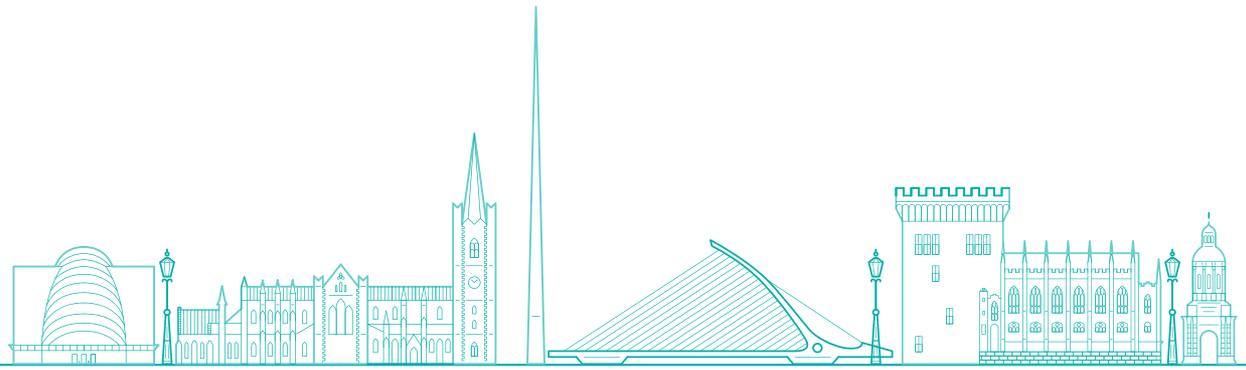
Although it is mandatory to report the conclusion of a collective bargaining agreement in Hungary, several parties (employer and trade union) do not comply with this obligation. The datasheet filled out by the employer and the content of the collective

bargaining agreement applicable to more than one employer may only be disclosed to others if the contracting parties have previously consented.

**Information about the current Hungarian law in connection with posting:** <https://bit.ly/3tKTnmV>

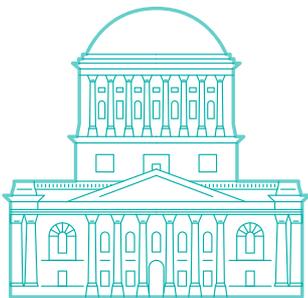
**Home page of posting registration:**  
<https://bit.ly/3vWuoyL>

# ireland



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 was transposed into Irish law in the form of S.I. 374 of 2020 European Union (Posting of Workers) (Amendment) Regulations 2020, which came into operation on 1 October 2020 (the 'Regulations').



## Remuneration of posted workers

In accordance with posted worker legislation in Ireland, an employee posted to Ireland should receive the benefit of all Irish employment legislation as would apply to an Irish national or an employee permanently based in Ireland, including the remuneration as rendered mandatory by law or collective agreements which have been declared as universally applicable.

### Statutory minimum wage at national level

Ireland's minimum wage requirement applicable from 1 January 2021 is EUR 10.20 per hour, a rise from EUR 10.10 applicable during 2020. The minimum wage is stipulated in the National Minimum Wage Act 2000 (as amended). The minimum wage is determined as an hourly rate and it depends on the age of the employee as follows:

Age	Minimum wage applicable (EUR per hour)
Under 18 years old	7.14 (70% of the minimum wage)
18 years old	8.16 (80% of the minimum wage)
19 years old	9.18 (90% of the minimum wage)
20+ years old	10.20 (the current minimum wage)

## Minimum wage set through collective bargaining agreements

Certain employees are covered by collective bargaining agreements that deal with the pay and working conditions of the employees concerned, as follows:

### (1) Sectoral Employment Order ("SEO")

An SEO is made by the Minister for Enterprise, Trade and Employment, following a recommendation from the Labor Court on matters such as remuneration, pensions and sick pay for employees in a particular economic sector and the SEO is binding on that sector. There are currently three SEOs in place covering the construction sector, the mechanical engineering sector and the electrical contracting sector.

### (2) Employment Regulation Order ("ERO")

An ERO sets the minimum rates of pay and conditions of employment for employees in a specified business sector. It is an agreement drawn up by a Joint Labor Committee (JLC), adopted by the Labor Court and signed into legislation by the Minister for Enterprise, Trade and Employment. There are currently three EROs in force; two in the contract cleaning industry and one in the security industry.

### (3) Registered Employment Agreement ("REA")

An REA is a collective agreement between a trade union or unions and an employer or employers dealing with the pay and/or conditions of employment of specified workers, which is registered with the Labor Court and is only binding on the parties that subscribe to it.

## What can be included in the remuneration

Please see below some examples of what can be included and what cannot be included in the remuneration (this is not an exhaustive list):

### Included in the remuneration

Basic pay	Payment of expenses
Piece and incentive rates, commission and bonuses which are productivity related	Payment by way of a pension, allowance or gratuity in connection with the death, retirement or resignation of the employee or as compensation for loss of office
Zero hour protection payments	Payment relating to redundancy
Shift allowances	Payment in kind or benefit in kind
A certain monetary value of board and/or lodgings	Holiday pay, sick pay, maternity pay
	Overtime premium

### Not included in the remuneration

## Working hours

The general maximum average legal working hours in Ireland is 48 hours per week.

## Mandatory registration of posted workers

For each individual posting from the same employer, the prescribed Form of Declaration must be completed. This form must be submitted to the Workplace Relations Commission (WRC) no later than the date on which the employee commences work in Ireland with the following details:

- ① Name and address of service provider
- ② Name and address of contact person
- ③ Name and personal details for each seconded worker (name, address, date and place of birth, nationality, social security number (PPSN))
- ④ The expected start and end date of posting
- ⑤ Location of work
- ⑥ The nature of the services – job descriptions/ job title
- ⑦ Contact details
- ⑧ Gross weekly pay
- ⑨ Total of weekly hours worked
- ⑩ Gross hourly rate of pay
- ⑪ Whether an employment permit is held (for non-EEA nationals).

Once the Form of Declaration is successfully submitted, the WRC will provide an acknowledgement to the service provider.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	No
Posting from a non-EU country	No

\*A business traveler is an individual who travels to Ireland for a period not exceeding 90 days in a 12-month period to attend meetings, negotiate or sign agreements/contracts and who does not carry out any 'hands-on' work.



## Determining the 12 month period

Directive 2018/957 provides for additional protections to posted workers who are the subject of a 'long term posting' (i.e. a posting for a period of 12-18 months).

Under Directive 2018/957, such posted workers must be guaranteed the same terms and conditions of employment mandatorily applicable to workers of

the host Member State. Ireland's transposition of the original Directive provided more than the required minimum protections for posted workers regardless of the length of the posting.

Accordingly, the Regulations only needed to provide some minor additions/clarifications to posted worker legislation.

## Documents and legal representation



Foreign employers posting employees to Ireland for the provision of transnational services are required to hold and keep (during the whole period of assignment and following the end of assignment) copies (in electronic format or hardcopy), in an accessible place, of the following documentation:



- 1 The employment contract of a posted employee or the written statement of terms of employment (within the meaning of s3 of the Terms of Employment (Information) Act 1994) or other equivalent document certifying employment terms.



- 2 Where relevant, time sheets or equivalent documents indicating the working time of a posted worker including the commencement and termination of work and the number of hours worked on a given day.

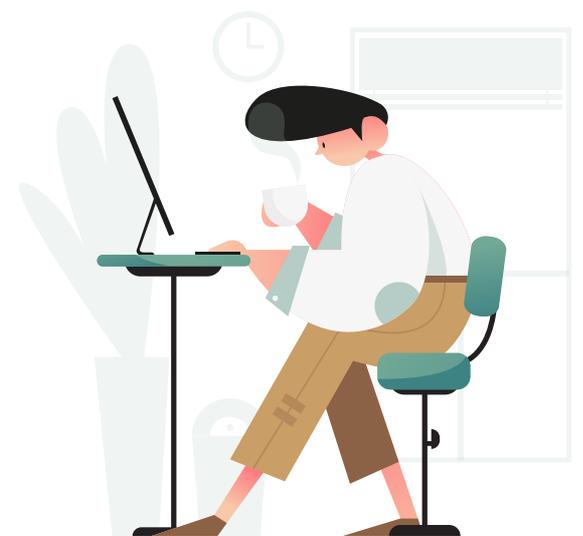


- 3 Payslips or equivalent documents specifying the remuneration of a posted worker along with the amount of deductions made in accordance with the applicable law and proof of transferring the remuneration to the employee i.e. proof of wages.

During the period of assignment and after this period, the employer posting an employee to Ireland is required to make the above documentation available at the request of the WRC, together with the appropriate translation into the English language (if necessary), no later than one month from the date of receiving the request.

The Regulations impose the obligation on foreign employers to designate a person to liaise with the WRC and to send out and receive documents and notices as necessary.

The Regulations do not expressly dictate that this should be an Irish resident person but this approach would appear the most practical i.e. a person within the host company or within KPMG as their agent.



## Penalties for non-compliance

Failure to pay the national minimum hourly rate of pay is a criminal offense, punishable upon summary conviction by a fine not exceeding €2,500 or imprisonment not exceeding 6 months or both.

Breaches of posted worker administrative requirements and control measures are an offense and hence the service provider may be liable:

- 1) On summary conviction, to a class A fine (currently €5,000), or
- 2) On conviction or indictment, to a fine not exceeding €50,000.

If such an offense is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person who is a director, manager, secretary or

other similar officer of the body, or is a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offense and is liable to be prosecuted and punished as if that person had committed the first-mentioned offence.

If the affairs of a body corporate are managed by its members, the above paragraph applies in relation to the acts and omissions of a member of the body corporate in connection with the member's functions of management as if the member were a director or manager of it.

Penalties for breach of general employment legislation (which posted workers may get the benefit of) can include orders of compensation of up to two years' pay, re-engagement or re-instatement of the claimant employee.

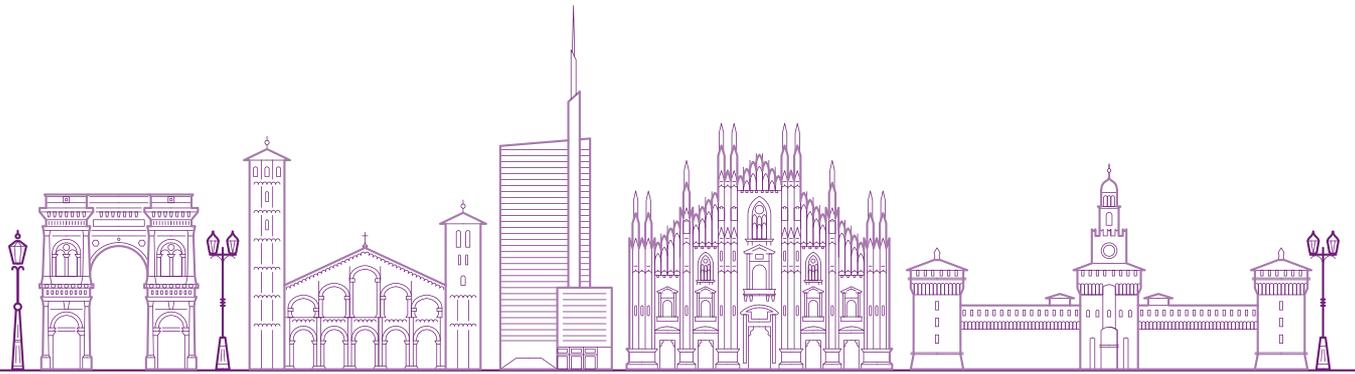
## Public sources of information

*Sectorial specific agreements (Sectorial Employment Orders and Employment Regulation Orders) can be accessed at [www.workplacelrelations.ie](http://www.workplacelrelations.ie)*

*Obligations as per the Directive can be also found at [www.workplacelrelations.ie](http://www.workplacelrelations.ie)*



# taly



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Law 122/2020 amending Law 136/2016, concerning the posting to Italian territory of employees providing transnational services, was aimed at implementing and transposing Directive 2018/957 into Italian legislation. Law 122/2020 was published in the Official Journal of Italy on 15 September 2020 and its provisions are applicable as from 30 September 2020.

No clarification has been provided so far by the Italian authorities on how to consider postings which started before 30 July 2020, the deadline for implementation provided by the European Directive, and which last more than 12 months.

## Remuneration of posted workers

### Remuneration set at national level

Italy does not have a minimum wage set at national level. The minimum wage is generally established by collective bargaining agreements, according to the sector, employees' level, etc.

### Remuneration set through collective bargaining agreements

Considering that in Italy there are no specific legal provisions defining the minimum base salary, the observance of CBAs is a standard practice.

The minimum wage is determined by negotiation between employers and different unions and it depends on the sector, employees' level, etc. For this reason a minimum wage has to be defined on a case by case basis according to the related details.

## What can be included in the remuneration

Generally speaking, in Italy the remuneration includes all items on the pay-slip, which usually consists of basic salary, items provided by each CBA (i.e. extra pay for overtime, seniority payments, paid holiday, fringe benefits, etc.) and all components granted in return for the performed work.

Travel expenses and housing allowances/reimbursement are generally not included in the remuneration. Only payments that are made for the work performed but not for costs incurred in connection to the posting should be considered as part of the remuneration.

## Working hours

A maximum legal working hours limit exists, but may vary according to the applicable CBAs. In general, overtime should be paid according to the provisions of the law and the collective agreements.

## Mandatory registration of posted workers

Since 2016, foreign employers (EU and non-EU) and placement agencies which post employees to Italy are required to notify the Ministry of Labor, within 24 hours before the assignment starts and in the event of any changes to the conditions of the assignment a notification has to be submitted to the Authority within 5 days.

The online registration form is available in Italian or English and the home company needs to be duly registered in order to proceed with the submission of the communication of assignment.

Before the beginning of the assignment, the home company has to identify for each assignment a reference person in charge of keeping the record of the relevant documentation, sending and receiving documents and communication as well as a reference person for contacts with unions. Italian provisions require that the elected record keeper must be domiciled in Italy.

Access to the official website of the Authority (Cliclavoro) is possible via specific credentials to be provided by the Italian authority. After the registration of the home company profile it is possible to set up the assignment details.

The information about the assignment that needs to be gathered and notified to the authority is the following:

- ① The home employer's details (legal name, VAT number and registered office, phone and email contacts);
- ② Details of the legal representative of the home country employer, who can also be non-resident in Italy;

- ③ The host country employer's details (legal name, VAT number and registered office);
- ④ Name and details of the record keeper;
- ⑤ Name and details of the liaison person;
- ⑥ Personal details for each seconded worker (name, date and place of birth, citizenship);
- ⑦ Start and end date of posting;
- ⑧ Location of work;
- ⑨ Contact details.

Once the online registration is successfully submitted, a single consecutive protocol number is issued and it is possible to download a PDF copy of the protocol and registration details. A separate procedure has now been instituted for cabotage operations.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	No
Posting from a non-EU country**	Depends

\*Business travelers are not included in the definition of posted workers according to Italian provisions, as the assumption is that business activities may not be identified as transnational services. According to the clarification provided by the Authority in this respect, activities related to business travel may be identified as meetings, conferences, reunions etc.

\*\* Italian law requires that the communication of assignment is sent to the Italian Labor Authority if a company based in another EU country posts a worker to Italy. This requirement is extended also to a home company based in a non-EU country but this option opens up a grey area. In the case of workers with European citizenship posted to Italy from a non-EU country, the communication of assignment is mandatory. In the case of non-EU citizens posted to Italy by a company based in a non-EU country, from an immigration point of view further entry and work authorizations need to be requested from the Italian authorities. In this last case, as it represents a grey area, communication of the assignment may be advisable in order to avoid possible fines.





## Determining the 12 month period

No clarification on how to consider postings started before the implementation of the Directive and lasting more than 12 months has been provided by the Italian authorities so far.

This does not mean that the posting is limited to a period of 12 or 18 months or that after this period a local employment contract must be concluded in Italy. The posted worker will still be seconded to

Italy but will have certain additional requirements according to the applied CBAs of the host company in Italy.

If a posted worker replaces another posted worker who fulfils the same type of activity in the same place, the 12 month period is determined by totalizing the posting periods of each employee.



## Documents and legal representation



Italian law requires that employers posting employees to Italy are required to hold and keep for the whole assignment and a further two years after the end of assignment, copies of the:

- ① Employment contract of a posted employee or other equivalent document certifying employment conditions;
- ② Working time of a posted worker indicating the commencement and termination of work and the number of hours worked on a given day;
- ③ Documents specifying the remuneration of a posted worker (payslips);
- ④ Secondment letter;
- ⑤ A1 Certificate (if applicable);

The employer must have the above documents translated into Italian and available if the Italian Labor Inspectors request them.

The legal responsibility for registration and compliance rests with the foreign employer (seconding employer), although they will need to identify representatives in Italy responsible for record keeping and liaison with the social parties.

It is, of course, possible to appoint either a representative of the host company or an external third party to carry out these roles.

Legislative Decree no. 136 and the Decree of the Ministry of Labor impose the obligation on foreign employers to appoint a person domiciled in Italy authorized to represent the foreign company in:

- ① Maintaining records and liaison with the relevant Italian authorities, and
- ② Acting as legal representative of the home company for putting the social parties (unions etc.) in contact with the employer for possible collective negotiations. This person does not have to be present at the workplace but available as required.

The same or different people can fulfill the record keeping and liaison roles and an external consultant, such as a registered Labor Consultant can fulfill one or both the roles.

Since the name and details of the record keeper are required as part of the online registration process, the identities should be established before the first secondment takes place.



## Penalties for non-compliance

Legislative Decree n. 136 introduces a penalty regime for offenses committed by an employer posting an employee to Italy as follows:

An administrative penalty of between EUR 180 and EUR 600 for failure to register a new secondment on time (this includes late registration and incorrect data);

.....  
A penalty for violations of record keeping requirements from EUR 600 to EUR 3,600 per individual employee involved;

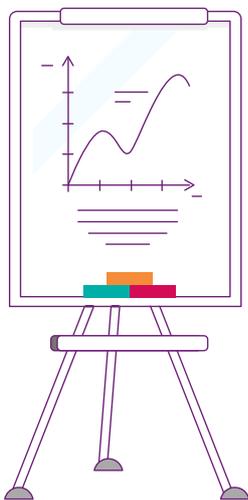
.....  
A penalty for failure to appoint a liaison or record-keeper of EUR 2,400 to EUR 7,200.

The total of all penalties cannot exceed EUR 180,000.

In cases where a secondment is not considered authentic, the fines could range from EUR 50 for every employee involved per day, subject to a minimum of EUR 5,000 and maximum of EUR 50,000.

In cases of non-compliance with Equal Pay, employers need to pay the difference. The host company and home company have joint liability.

## Public sources of information



.....  
A full list of all current National Collective Agreements is available at the following Link. These are in the Italian language, <https://www.cnel.it/Contratti-Collettivi/Contrattazione-Nazionale/Archivio-Corrente>.

An ad hoc portal and online registration form ([www.cliclavoro.it](http://www.cliclavoro.it)) has been set up, allowing speedy and efficient online registration.

More information on the regulations and mandatory fulfilments in English are available at the following link <http://distaccoue.lavoro.gov.it/en-gb/Thematic-Areas/DettaglioAreaTematica/id/12>

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## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services has been implemented into Latvian Labour Law as from 5 January 2021. The new requirements are applicable to postings starting as of the date the requirements came in force.

## Remuneration of posted workers

### Remuneration set at national level

Latvia has a minimum wage requirement in place. The Latvian Government reviews the general minimum wage level each year. The Latvian minimum wage in 2021 is a fixed amount of EUR 500 per month. There are no other minimum wages set at a national level, except for the construction industry as provided in the next paragraph.

### Remuneration set through collective bargaining agreements

A collective bargaining agreement has been concluded within the construction industry. It is in force as of 3 November 2019. It stipulates that the minimum wage in this industry is EUR 780 per month.

The minimum wage set through collective bargaining agreements cannot be contrary to laws and regulations in Latvia.

However, the Latvian Labor Law states that if there is collective bargaining with respect to a higher minimum wage in an industry (as with the construction industry) the employer is entitled to pay a lower amount of overtime pay, but not less than 50% of the standard hourly rate.



## What can be included in the remuneration

### Included in the remuneration

- 1 Basic salary
- 2 Vacation pay
- 3 Bonuses
- 4 Overtime payments

### Not included in the remuneration

- 1 Compensation of business trip advances
- 2 Per-diems



## Working hours

The maximum regular working time in Latvia is 8 hours per day or 40 hours per week.



## Mandatory registration of posted workers

According to the Labor Law, an employer who posts an employee to perform work in Latvia is required, prior to posting the employee, to inform in writing (in the Latvian language) the Latvian State Labor Inspectorate about the posted employee, indicating:

- ① The given name, surname, ID document number and address of an individual who is the employer, or the name (business name) of the legal entity (company), its registration number, address and the name and surname of the person(s) on the executive body with signing rights, as well as their contact details: address, e-mail and telephone number.
- ② The given name and surname of the employee, as well as their ID document number.
- ③ The anticipated duration of the posting, as well as the date of commencement and completion of work.
- ④ The address of performing the work or several addresses if the performance of work duties is not intended to be in a certain place.
- ⑤ A representative of the employer in Latvia, including the given name, surname and contact information.
- ⑥ A person for whose benefit the work will be performed (recipient of a service) as well as the nature of the services justifying the posting.
- ⑦ A certification that a posted employee who is a third-country national legally works for an employer in the European Union Member State, the European Economic Area State or the Swiss Confederation.
- ⑧ Information on the A1 certificate issued to the employee.

The provisions of the Labor Law do not apply to ships' crews of merchant shipping companies.

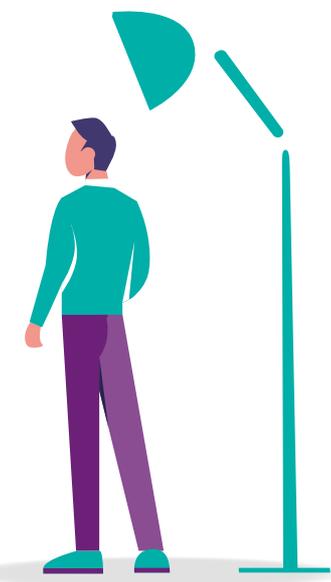
### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting*	No
Posting over 12 months	Yes
Business travelers**	Depends
Posting from a non-EU country**	No

\*Not mandatory, but advisable.

\*\*A business traveler is an employee who is sent on a business trip - an official work trip to another area in Latvia or abroad approved by the employer for a certain period of time to perform work (service) or to supplement knowledge and improve qualifications (study visit).



## Determining the 12 month period

The requirements deriving from Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services are not applicable to the registered postings which were in place before the transposition of the directive.

If an individual is posted for the purpose of replacing another posted worker, his/her case must be regarded as separate. Thus the registration obligations must be fulfilled and his/her posting period will start from the first day of posting



## Documents and legal representation



The employer should ensure the storage of the concluded employment contracts, assignment agreements, pay-slips, time-sheets and documents which prove the payment of wages by its representative in Latvia, who is authorized to represent the employer in relations with Latvian state institutions and in court.

This information should be presented to the supervisory and controlling authorities, and, if required by these authorities, translation of these documents into the official (Latvian) language should be ensured.

The appointment of a representative in Latvia is a mandatory requirement. This representative can be

any person with the capacity to act. In the case of a labor audit the employer bears the responsibility for compliance with the Labor Law.

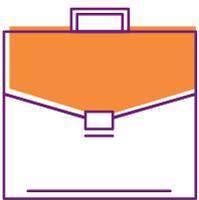
The storage and presentation period of all the previously mentioned documents expires two years after the completion of the posting.

An employer, if necessary, is required to also appoint a representative to whom the parties of the collective agreement may refer in order to launch negotiations on entering into a collective agreement in accordance with the provisions of the Labor Law.

The employer may also assign two different persons – each for one of the above cases.



## Penalties for non-compliance



An employer which fails to comply with the regulations for posting an employee to carry out work in Latvia will be subject to administrative penalties in accordance with the Latvian Labor Law.

The amount of the penalty depends on the nature of the violation, frequency of the violation, severity etc. The fine for non-compliance in general with Latvian Labor Law, including registration requirements for posting of workers, may range between EUR 70 – EUR 7,100 per case.

For failure to ensure the minimum monthly salary if the person is employed for regular working time, or for failure to ensure the minimum hourly salary rate, a fine from EUR 430 to EUR 570 can be imposed on the employer if he/she is an individual, or a fine from EUR 850 to EUR 7,100 if the employer is a legal entity.

The Latvian Labor Law also lists other specific employment related violations for which the penalties may reach EUR 14,000.



## Public sources of information

For public information about obligations of foreign entities which send employees to perform work in Latvia, you may access the Ministry of Welfare of the Republic of Latvia webpage:

<https://www.lm.gov.lv/en/posting-workers-carry-out-work-latvia>

# Lithuania



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 has been implemented in Lithuania through the amendment of the Labor Code of Lithuania. The amendments came into force as from 30 July 2020.



## Remuneration of posted workers

### Remuneration set at national level

Lithuania has a minimum wage set at national level. From January 2021, the gross minimum wage is EUR 642 per month (equivalent of EUR 3.93 per hour).

In accordance with the new Labor Code, as from July 2017 the minimum monthly wage can only be paid for unqualified work. Work is considered to be unqualified, if no specific qualifications or skills are required from the employee.

Level of the employee	Monthly amount	Hourly amount
Blue collar	642 EUR	3.93 EUR
Highly skilled (blue card)	>642 EUR	>3.93 EUR

There are no general rules established in Lithuania to change or review the minimum wage regularly (e.g. annually or in January each year).

This is a political issue, and hence it is difficult to predict whether changes will occur in the future.

### Remuneration set through collective bargaining agreements

The minimum wage is set by the Lithuanian Government at national level. It is also permissible to set a higher minimum wage in collective agreements at company level.



## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage

Bonuses (depending on the type of bonus)

Special payments (e.g. Foreign Service premium, Hardship premium, Country allowance, Assignment allowance, Cost of Living allowance – depending on the type of payments)

Per-diems

### Not included in the remuneration

Housing

Transportation costs

Meal costs

Bonuses (depending on the type of bonus)

Overtime payments



## Working hours

Standard working hours in Lithuania are 8 hours per day or the equivalent of 40 hours per week. Various exceptions may be applicable in accordance with specific laws, government resolutions and collective agreements. According to the Labor Code, maximum working hours, including overtime but

excluding work under an agreement on additional work, must not exceed 48 hours in any 7 calendar days. Maximum working hours, including overtime and work under an agreement on additional work, must not exceed 12 hours per day and 60 hours in any 7 calendar days.



## Mandatory registration of posted workers

In terms of administrative requirements, a foreign employer which posts employees to Lithuania is required to notify the Lithuanian labor authorities with respect to these postings. The notification must be submitted prior to starting the activity of the assignees. Non-compliance with the above mentioned requirement can lead to various penalties for the posting employer.



### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers	No
Posting from a non-EU country *	Yes

*\*Registration obligation is applicable. In certain cases a posted employee must obtain a visa and/ or a work permit too.*



## Determining the 12 month period

If an assignment was in place when the Directive was transposed into Lithuanian legislation, the periods prior to the implementation of the Directive date are not considered.

If an individual is posted for the purpose of replacing another posted worker, the State Labor Inspectorate should be notified accordingly by provision of the information on the individual to be replaced in the posting registration form.



## Documents and legal representation

In the case of a labor audit, the following documents must be made available to the Lithuanian authorities:

- employment contract;
- documents confirming information on the amount of salary, its calculation and payment;
- copies of timesheets.

The authorities are entitled to request any other documents as well.

Documents have to be kept 10 years after the termination of the assignment. Documents must be provided in Lithuanian upon request from the authorities. A certified translation is not required.

It is mandatory for the home company to appoint a contact person (any third person authorized by the home company) in Lithuania. He/she is responsible for communication with the Lithuanian authorities, providing requested documents etc.

## Penalties for non-compliance

Assignments of foreign employees to Lithuania, irrespective of the time spent in the country, may trigger certain tax obligations for the assignee and/or for the host company.

Certain assignments to Lithuania also have to be reported for tax purposes by Lithuanian companies.

Therefore, in general, international assignments can be tracked by the authorities, which aim to enforce tax compliance.

Non-compliance with the registration requirements may result in a penalty. The amount thereof depends on the frequency of the violation and it may be up to EUR 440.

Non-compliance with equal pay, or not granting the posted worker assignment expenses may also result in a penalty. The amount depends on the frequency of the violation and it may be up to EUR 560.

These penalties are imposed on the employers of the posted employees.

## Public sources of information

The list of collective agreements can be found here:

<https://socmin.lrv.lt/lt/paslaugos/administracines-paslaugos/kolektyviniu-sutarciuregistras>

Publicly available information on obligations of foreign entities assigning personnel to Lithuania:

[http://www.vdi.lt/Forms/Tekstas1.aspx?Tekstai\\_ID=775](http://www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=775)



# uxembourg



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The Law of 15 December 2020 amending art. L. 141-1 to L.144.10 of the Luxembourg Code of Labor, transposes Directive 2018/957 into Luxembourg legislation and is applicable as from 22 December 2020.

The Law of 15 December 2020 should apply to all postings which are still in place on 22 December 2020, not only to those starting as from 22 December 2020.



## Remuneration of posted workers

### Remuneration set at national level

Luxembourg legislation provides for a minimum wage requirement.

As from January 2021, the minimum wage applicable was set at EUR 2,201.93 per month. However, this is updated periodically, with no specific rule as to how often the update takes place. The minimum wage is determined as a fixed amount and it depends on the worker's age and skills.

Age	Skill	Minimum wage (EUR)
15-16	Blue collar	1,651.45 (75% of the standard minimum wage)
17-18	Blue collar	1,761.54 (80% of the standard minimum wage)
Over 18	Blue collar	2,201.93 (100% of the standard minimum wage)
Over 18	Highly skilled	2,642.32 (120% of the standard minimum wage)

### Remuneration set at collective bargaining agreement level

Luxembourg has collective bargaining agreements which can either be applicable at unit level (for companies which have signed the agreement) or with general obligation (i.e. applicable for all employees and employers of the industry concerned).

Minimum wage rates can be established by the applicable collective agreements. However these amounts cannot be lower than the national minimum gross wage.



## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage



### Not included in the remuneration

Reimbursement of professional expenses

Housing

Transportation costs

Meal costs

Overtime payments

Bonuses

Special payments (Foreign service premium, Hardship premium, Country allowance, Assignment allowance, Cost of living allowance)

Per-diems



## Mandatory registration of posted workers

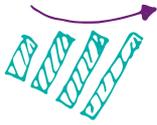
Prior to the employee's start-date in Luxembourg, the following essential information on obtaining the social badge should be reported via the online platform e-Détachement:



- ① Details of the posting employer and its effective representative
  - ② Details of the legal entity or individual, present in Luxembourg, who will be the contact for the ITM and other authorities
  - ③ The start date and the expected duration of the posting, in accordance with the service contract
  - ④ The place(s) of work in Luxembourg and the foreseeable duration of work
  - ⑤ The surnames, first names, dates of birth, nationalities, and professions of the employees
  - ⑥ The capacity in which the employee is engaged in the company and the profession or occupation which he/she usually has, as well as the activity to be performed during the posting to Luxembourg
  - ⑦ a copy of the contract for the provision of services
  - ⑧ a copy of the accommodation register
  - ⑨ a copy of the document showing how the employer will cover travel, accommodation and food expenses
  - ⑩ a copy of the document showing the amounts of the above expenses
- To substantiate the information above, the following documents are required:
- ① A copy of the labor supply contract, where applicable
  - ② The certificate of prior declaration (certificat de déclaration préalable) or the certificate replacing it issued by the Ministry of the Middle Class (Ministerie des classes Moyennes)
  - ③ The original or certified copy of the A1 certificate
  - ④ The VAT certificate issued by the VAT administration (Administration de l'enregistrement et des domaines)
  - ⑤ A copy of the employment contract or a certificate of compliance with Directive 91/553 of 14 October 1991 on an employer's obligations to inform employees of the conditions applicable to the contract or employment relationship



7 In the case of a part-time work or a fixed-term employment contract, a certificate of conformity issued by the relevant control authority in the country in which the posting undertaking has its registered office or usual place of operation



8 The official documents attesting the professional qualifications of the workers  
Payslips and proof of payment for the duration of the posting



9 A register indicating the beginning, end, and duration of each workday for the whole duration of the posting

10 A copy of the stay permit or residence permit for each third-country worker posted to Luxembourg

11 A copy of the pre-employment medical certificate

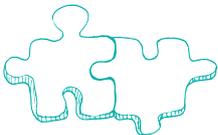
Any subsequent changes, including the location or purpose of the work, should be reported to the ITM. The registration should be completed prior to the first work day in Luxembourg.

**Posted workers**

**Registration (Yes/No/Depends)**

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Yes
Posting from a non-EU country**	Yes

\* Luxembourg does not distinguish business travelers in its domestic law



**Determining the 12 month period**

The 12 month period defined by Directive 2018/957 is counted as from 22 December 2020. For assignments which were in progress on the implementation date of the Directive, the 12 month period should be counted starting from this date.

The previous period should not be considered. If the posting exceeds the 12 months or 18 months, the posted worker is subject to all the Luxembourg

rules on working conditions (including those laid down in collective agreements) and not only the core rules.

Where the posted worker replaces another posted worker who fulfils the same type of activity in the same place, the 12 month period is determined by totalizing the posting periods of each employee.



## Documents and legal representation

To allow employers to comply with the new law, the existing electronic platform (<https://guichet.itm.lu/edetach/>) has been improved and extended. This website is available in French, German, and English.

The registration should be completed prior to the first workday in Luxembourg.  
Luxembourg law provides for the posting entity to indicate a legal representative in Luxembourg to establish contact with the Luxembourg authorities.

According to the law, if this entity has no legal representative in Luxembourg, one of the employees posted to Luxembourg should be designated as a contact person with the

Luxembourg authorities. Appointing a representative is mandatory. However this representative is only a reference person for the authorities in order to collect information.

The representative can be anyone in Luxembourg during the period of the posting. In the case of a labor audit, the responsibility is borne both by the posting company and by the receiving company as the receiving company has an obligation of communication and information while the posting company has the obligation to comply with all the provisions.

Documents must be retained for up to 10 years for the purposes of labor audits. All documents must be translated into French or German.



## Penalties for non-compliance

According to the law, the Luxembourg authorities may issue fines of between €1,000 and €5,000 for infringements of the provisions related to the posting of workers (including those related to the core rules).

The fine may be doubled if repeated offences are committed within a period of two years following the date of notification of the first fine. The fine

applies per posted worker, with a cap of €50,000. The legal representative cannot be fined as he/she is only an intermediary. The fine is issued either to the sending company or to the receiving company.

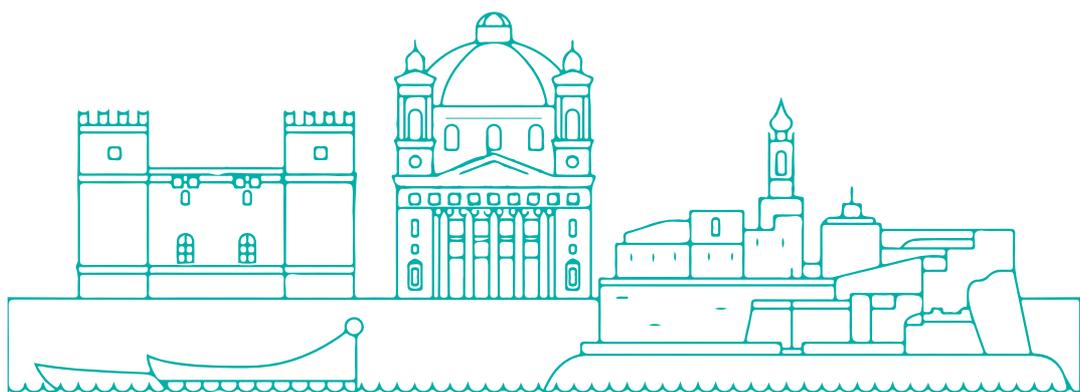


## Public sources of information

For public information on obligations of foreign entities assigning personnel to Luxembourg, please visit the website: <http://itm.lu/en/home.htmls>.

To allow employers to comply with the new law, the existing electronic platform (<https://guichet.itm.lu/edetach/>) has been improved and extended. This website is available in French, German, and English.

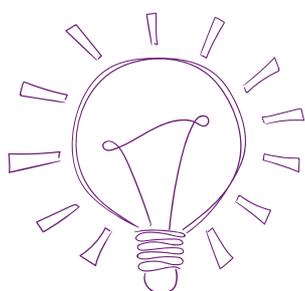
# Malta



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Transposed into the Laws of Malta by means of Legal Notice 262 of 2020, which came into effect on 30 July 2020.

The aforementioned legal notice is also applicable with respect to existing postings which commenced prior to 30 July 2020.



## Remuneration of posted workers

### Remuneration set at national level

Malta has a minimum wage set at national level. However, the minimum wage requirement is determined by the economic activity of the enterprise as stipulated in the applicable Wage Regulation Order and by the age of the employee.

Where no Wage Regulation Order applies, the level of the minimum wage effective as of January 2021 is as follows:

Age	2020	2021
Under 17 years	EUR 169.71 per week	EUR 171.46 per week
Aged 17 years	EUR 172.55 per week	EUR 174.30 per week
Aged 18 and over	EUR 179.33 per week	EUR 181.08 per week

The minimum wage increases annually and is expected to change starting from 1 January of each year.

### Remuneration set through collective bargaining agreements

The Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta) provides for the possibility of collective bargaining agreements to be negotiated between an employer and one or more organizations of employees about conditions of employment.

These collective agreements include a wide range of matters including the possibility of negotiations in relation to salary scales and annual increments higher than those provided for by the national minimum wage.

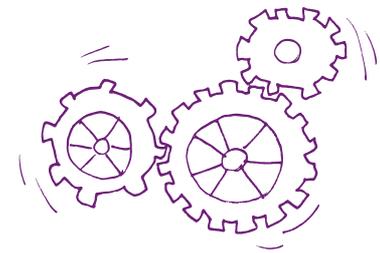
## Sectoral Wage Regulation Orders

Wage Regulation Orders regulate certain conditions of employment with respect to employees employed in certain specific industry sectors.

For illustrative purposes please see below the remuneration applicable for the following 5 industries:

- ① Automotive – No specific Wage Regulation Order applies and therefore the minimum wage is as per the table above.
- ② Telecom – No specific Wage Regulation Order applies and therefore the minimum wage is as per the table above.
- ③ IT – No specific Wage Regulation Order applies and therefore the minimum wage is as per the table above.
- ④ Oil & gas – No specific Wage Regulation Order applies and therefore the minimum wage is as per the table above.
- ⑤ Construction:

Age	2021
Under 17 years	EUR 172.35 per week
Aged 17 years	EUR 174.93 per week
Aged 18 and over	EUR 185.74 per week



## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage



### Not included in the remuneration

Housing

Transportation costs

Meal costs

Statutory bonuses

Weekly allowances

Cost of Living Adjustment

## Working hours

The general rule is that the average working time, including overtime, must not exceed 48 hours for each seven-day period, spread over a reference period of seventeen weeks. It is, however,

possible to exceed this average provided that the employee consents in writing. Exceptions also apply in relation to certain types of employment covered by a particular Wage Regulation Order.

## Mandatory registration of posted workers

In terms of administrative requirements, in the case of assignments to Malta, it is the responsibility of the employer posting the worker to Malta to notify the Department of Industrial and Employment Relations of the intention to post a worker to Malta, prior to the date of posting.

While carrying out work in Malta an employee who is posted from an EU/EEA country is not required to apply for a working license in Malta. In the case of a third country national (TCN) an employee who is employed by a posting undertaking that is established in an EU/EEA country does not need to

go through a working license procedure in Malta if the posted worker already holds a working license issued in the country where the posting undertaking is established.

However, the employee is still required to transfer the permit by liaising with the employment agency.

For any foreign national who is posted to Malta by an

undertaking established outside an EU/EEA country, a working license is required to be issued by Jobsplus prior to the commencement of the posting.

In any case of a posting to Malta, the undertaking posting the worker is required to notify the Director of Industrial and Employment Relations (DIER) of its intention to post a worker to Malta. A 'Notification of a Posted Worker to Malta' form must be prepared for this purpose.

The Notification Form should be accompanied by supporting documentation including a copy of the

employee's passport bio page, a copy of the principal employment contract, a copy of the contract of posting and, in the case of a TCN posted employee from an EU/EEA country, also with a copy of his/her existing working license, and it should reach the Department of Industrial and Employment Relations prior to the commencement of the posting.

The undertaking making use of the services of the posted worker is required to keep a copy of this Notification Form and the requisite supporting documentation at the place of work for monitoring purposes by the DIER inspectors.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Yes
Posting from a non-EU country **	No

\*No definition available under the local legislation

\*\*Immigration registration requirements would be applicable.

## Determining the 12 month period

As from 30 July 2020, where the effective duration of posting exceeds 12 months (or 18 months in cases where a notification with justification is submitted), all the applicable terms and conditions of employment of Malta, as the host Member State apply.

The only two exceptions are dismissal and supplementary occupational retirement pension

schemes. The aforementioned 12 month period is determined from the commencement of posting in Malta, including postings which commenced prior to 30 July 2020.

Where a foreign service provider replaces a posted worker by another posted worker, performing the same task at the same place, then the duration of the posting is the cumulative duration of the posting periods of the individual posted workers concerned.

## Documents and legal representation

Documents have to be retained throughout the period of posting. No statutory requirement exists for retention beyond this in terms of employment law. However insofar as the documents concerned

constitute supporting documents for the purpose of ascertaining deductible expenses claimed for Maltese tax purposes (i.e. contracts of posting) these are required to be retained for 10 years.

## Penalties for non-compliance

For breaching the provisions of the Posting Workers in Malta regulations, a fine of between EUR 117 and EUR 1,165 may be imposed.

In the case of non-compliance with the minimum wage requirement, penalties between EUR 232.94 and EUR 2,329.37 may apply. In addition, the employer may be liable to pay the employee the amount due.

In cases of criminal conviction for certain offenses, the employer is subject to penalties as well as being required to pay the posted employee the

amounts due to him/her. These offenses are:

(a) Failing to pay the posted worker the minimum rates of pay, including overtime rates as applied to various classes of employees.

(b) Withholding back-payments, or refunds of taxes or social security contributions, from the posted worker's salary without good reason.

(c) Withholding or deducting excessive costs for accommodation from the posted worker's salary.

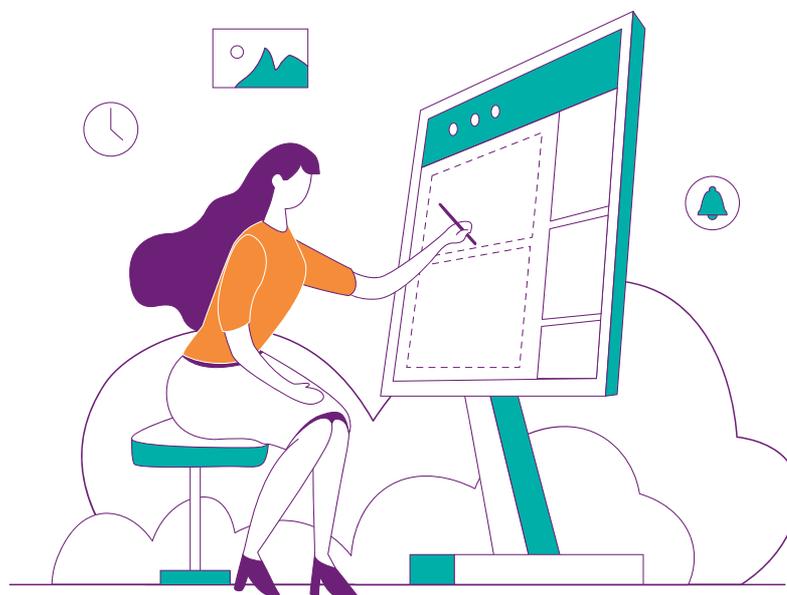
## Public sources of information

Please refer to the following wage regulations orders which are applicable to particular industries:

<https://dier.gov.mt/en/Legislation/Pages/Wage-Regualtion-Orders.aspx>

For information on obligations of foreign entities assigning personnel to Malta please visit the following website:

<https://dier.gov.mt/en/Employment-Conditions/Posting%20of%20Workers%20in%20Malta/Pages/Information.aspx>



# The Netherlands



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Both the Enforcement Directive and the PWD were transposed into the Netherlands' legislation through the law "Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie" or "WagwEU" and became effective as of 30 July 2020. A separate law deals with the mandatory minimum wage. In addition, Collective Bargaining Agreements (CBAs) may also contain minimum wage requirements.

Currently, the PWD provisions only apply in the Netherlands if the posted worker's activity falls under the scope of a collectively binding CBA. If this is the case, during the first 12 months only the "equal pay principle" applies (i.e. the same gross as that for a local employee) and, pending extensions, after that period the entire set of local employment provisions become applicable to the posted worker (with the exception of the company pension plan, the rules concerning dismissal and/or the rules concerning non-competition).



## Remuneration of posted workers

### Minimum wage at national level

Currently, the Netherlands has a gross minimum wage set at national level. However, the minimum wage is determined based on the age of the employee. With effect from 1 July 2019 the age barrier for entitlement to the full minimum wage has been set at 21 years.

The level of the minimum wage is determined monthly, weekly and daily as per the table below. Amounts shown exclude the statutory holiday allowance of 8% of the gross wage:

Period	Employees aged 21 or over
Daily	EUR 77.76
Weekly	EUR 388.80
Monthly	EUR 1,684.80
Hourly	Depending on the regular hours worked in the applicable branch a different hourly wage applies:
36 hours	EUR 10.80
38 hours	EUR 10.24
40 hours	EUR 9.72

*\* Employees under the age of 21 are entitled to a lower minimum wage*

A new provision has applied since January 2016, stating that the minimum wage should be paid to a bank account.

Blue collar workers can only work in the Netherlands for the minimum wage mentioned above if they are EU/EEA or Swiss nationals. In general, special salaries, much higher than the minimum wage, apply to non-EU/ EEA highly skilled migrants who apply for residence work authorizations and for blue card holders. Effective 1 January 2018 the minimum wage also applies to any work hours in addition to the regular working hours in the profession or industry, unless this work is paid as compensatory time-off.

Another important change effective since 1 January 2018 is that independent contractors or freelancers are covered by the scope of the law and should thus also be paid at least the minimum wage applying at the national level.

## Remuneration set through collective bargaining agreements

### What can be included in the remuneration

The applicable number of working hours can also be determined in a collective bargaining agreement (if applicable). CBAs may apply to certain industries and sometimes have been made collectively binding, meaning that if a company is not a formal party to a CBA, its conditions nevertheless apply.

Finding out if and precisely which CBA applies can often be difficult. CBAs can also contain different agreements with respect to the applicable minimum wage, although this may never be less than the statutory minimum wage as per the above table.

#### Included in the remuneration

Basic salary/basic wage

Compensation for overtime

Additional payments for e.g. irregular working hours, night shifts

Structural (weekly or monthly) payments based on the employee's turnover (so the amount can vary but the payments themselves should not be incidental)

#### Not included in the remuneration

Per-diems

Housing

Transportation costs

Holiday allowances

Payments for special events, entitlements to receive payments in the future, reimbursements which are supposed to cover necessary expenses as a result of the employment, special reimbursements for wage-earners and heads of families, year-end payments, employer's contributions to health insurance

Profit sharing payments

Meal costs

### Working hours

The law does not lay down how many hours there are in a full working week. There are usually 36, 38 or 40 hours in a full week, depending on the normal work hours in the particular profession.

Therefore, the hourly minimum wage varies. The maximum legal working schedule in the Netherlands is 12 hours per day or 60 hours per week.

### Mandatory registration of posted workers

Further to the EU Enforcement Directive, the WagwEU contains the checks which the authorities may apply to determine if an employee is temporarily assigned to work in the Netherlands and, as such, falls under the scope of this act.

Examples of these checks are: the duration and start-date, whether the employee will return, whether he/she normally works in the home country, the nature of the activities performed in the host country, whether or not the sending company pays for housing in the host country, earlier time spent in the Netherlands, proof of continuation of the home country social security, from where and how regularly the services are managed, who pays etc. To allow the authorities to carry out these checks, assignments should be registered prior to their start.

To help employers comply with the legislation a central website has been launched in English,

German and Dutch, via which the sending company should register the assignee and which shows all the relevant conditions for the sending company to register.

The website also links to the online reporting tool through which the information should be submitted by the sending company. While the sending company must submit the notification, the receiving company should in turn verify if the sending company has complied with its reporting obligation. This official check must be made by the receiving company within five days of the start of the work using the same online reporting tool.



## Posted workers

## Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	No
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	No

\* *Business travelers* – Business travelers are exempted from having to register when they travel to the Netherlands for the purpose of attending business meetings or taking out contracts provided that the duration of their stay does not exceed 13 weeks within a 52 week timeframe. Other exemptions are also provided by Dutch legislation.

\*\* *The Netherlands does not have a registration requirement with respect to postings from non-EU countries under the posting legislation. However, immigration registration requirements apply. Individuals subject to immigration requirements will be automatically registered for the purposes of the Directive as well.*

## Determining the 12 month period

The 12 month period during which only the equal pay principle applies (provided that the assignee's work falls under the scope of a collectively binding CBA), is calculated as the difference between the assignment start- and end-date.

This applies for both full- and part-time assignments. For example, for commuters (who are not 100% assigned to the Netherlands and who return

frequently), the 12 month period is not calculated on the basis of their Dutch working days but instead by simply looking at their assignment start- and end-date.

The 12 month period can easily be extended to 18 months unless it was known from the start that the assignment would last more than 12 months.

## Documents and legal representation

WagwEU requires the sending company to have (either in hardcopy or electronically) the following information available at the employee's place of work:

- The contract of employment.
- Documents showing the number of hours worked.
- Copy/ copies of payslip(s).
- Proof of payment of social security contributions (the A1 social security certificate of coverage).
- Proof of the identity of the sending and receiving companies.
- Details of the assignee and the person responsible for paying the assignee's wage and proof showing that the assignee's salary has been paid.

Upon the authorities' request, the sending company is responsible for providing this information after or during the assignment within a reasonable timeframe. Documents should be in Dutch, English, French or German. However, depending on the case, an official translation may be requested.

Documents need to be kept stored for five years after termination of the assignment. As part of WagwEU, the sending company is required to appoint a contact person in the Netherlands to act as a liaison with the authorities. The assignee can act as the contact person as well.

## Documents and legal representation

The penalties for not registering an assignment, or registering it late, are linked to the number of workers and vary from EUR 1,500 if there are less than 10 posted workers, to EUR 4,500 in cases of 20 posted workers or more.

These penalties can be imposed on both the sending and the receiving company. Failure by the receiving company to check the notification may lead to a EUR 1,500 fine. Furthermore, fines may be lowered or raised depending on the frequency of the violation and its severity.

The Dutch authorities are very strict in enforcing the employer's obligation to pay staff according to the

Minimum Wage Act. This is audited in several ways, for instance by the authorities checking the central payment system (SUWI-net) or by inspections on site by the Labor Inspectorate.

Furthermore, construction sites must maintain a strict gate administration which is very often checked as well.

The authorities do not impose penalties when a company violates the PWD-provisions. Instead this is left for the companies and trade unions to resolve. (The PWD provisions only apply for collectively binding CBAs so unions are always involved).

## Public sources of information

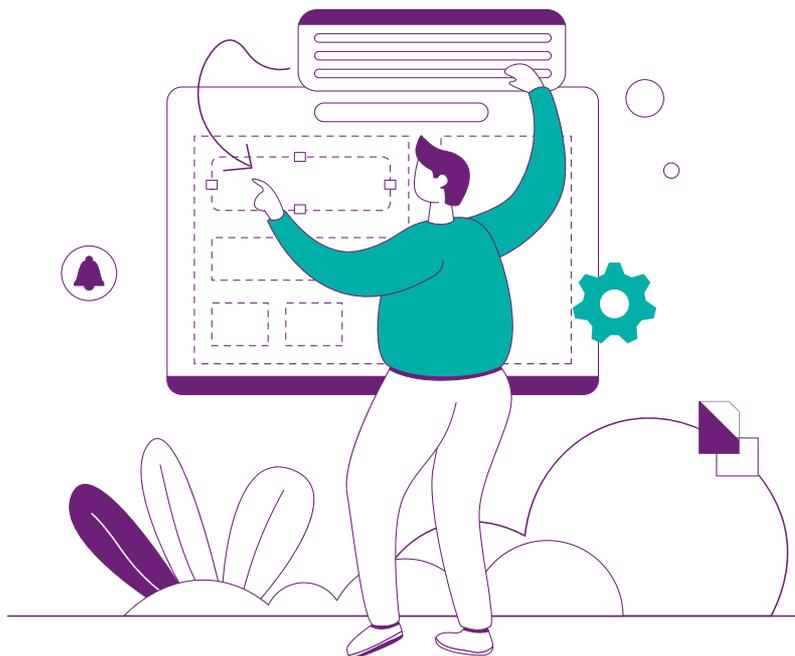
There are many different collective labor agreements in the Netherlands.

The following website has a collective labor agreements search function, which might be useful:

<https://www.fnv.nl/sector-en-cao/alle-caos/>

Posted worker information webpage with link to the online reporting tool:

<https://english.postedworkers.nl/>





# Norway



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The Enforcement Directive was implemented in the Norwegian Working Environment Act and the regulation concerning posted workers as from 1 July 2017. Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers has not yet been implemented in Norway, nor in the EEA treaty. The legislative process is, however, ongoing, both at a national level and in the EEA joint committee. The Norwegian government published a hearing in July 2020 setting out the legislative measures which will be needed in Norway as a result of the revised Directive, and, even though there are some significant changes, some of the important aspects are already in effect. For example, the Norwegian Government does not plan to implement any other reporting requirements following the revised PWD, since there are already similar registration obligations with the tax authorities.



## Remuneration of posted workers

### Minimum wage at national level

Norway is one of the Nordic countries which does not have a statutory fixed minimum wage requirement in place.

### Minimum wage set through collective bargaining agreements

Generally, remuneration is negotiated between the parties, either individually or collectively. However, in certain industries or business sectors there are generally applicable collective bargains in place, which provides mandatory minimum wages for certain groups of employees.

The minimum wage can change at different times for different industries. However, generally, it changes annually, during spring. The minimum wage depends on education, experience etc.

Below you can find some examples of the current mandatory minimum pay in certain industries:

Industry	Qualifications	Mandatory minimum wage per hour
<b>Building sites *</b>	Skilled employees	NOK 209,70
	Unskilled employees	NOK 188,40
	Unskilled, min. 1 year work experience	NOK 196,50
<b>Maritime construction/ shipbuilding industry *</b>	Skilled workers	NOK 178,55
	Semi-skilled worker	NOK 170,53
	Unskilled worker	NOK 162,60
	In addition various increments to wages apply	
<b>Agriculture and horticulture*</b>	Unskilled employees	NOK 143,05
	Skilled worker	NOK 143,05 + NOK 11,75
	In addition various increments to wages apply	NOK 143,05 + NOK 11,75
<b>Cleaner*</b>		NOK 187,66

*\*the employer should also pay 14.1 % in pension contributions. In addition to the salary, the employer has to offer an obligatory private pension scheme (special rules on this apply) to employees who are members of the Norwegian social security scheme. The contribution paid by the employer is tax free for the employee, but employer social security contributions are calculated on the pension contribution paid.*

In addition, most generally applicable collective bargaining agreements require the employer to cover expenses related to travel, board and lodging for travel within Norway.

Currently, in addition to the industries mentioned above, there are generally applicable collective bargaining agreements in place in the following industries: electrical, fish processing enterprises, hotels, restaurants and catering, and the transport industry (both transport of freight and of persons).

It is important to determine whether the work is covered by an agreement which contains provisions on a minimum wage.

Moreover, enterprises participating in public procurement will have a contractual obligation to apply minimum pay according to either a nationally applicable collective bargaining agreement or a generally applicable collective bargaining agreement. This should be assessed prior to submitting a tender.

## What can be included in the remuneration

In terms of how the minimum wage is determined, wages are considered remuneration for labor. Allowances come in addition to wages and should not be included in minimum pay, but there may be exceptions

### Included in the remuneration

Basic salary/basic wage per hour

Some premiums may, subject to further assessment on a case-by-case basis, be included in the minimum wage if they are not meant to cover the employee's expenses. For instance, there are examples of cases where an assignment allowance has been accepted by the Norwegian Labor Inspectorate as included in the minimum wage, provided the allowance was not meant to cover the employee's expenses while posted. \*

Individual bonuses (e.g. based upon individual efforts)

### Not included in the remuneration

Per-diems

Housing

Transportation costs

Meal costs

Insurance and pension schemes

Generally applicable bonuses (e.g. to all employees)

Overtime supplements and (if applicable) shift premiums are not included in the minimum wage and should be paid out in addition to the basic hourly wage

\* The regulatory/compliance risk with such arrangements are high. Before concluding that a premium may be included in the minimum wage based on the Norwegian regulations, we recommend seeking legal assistance.

## Working hours

Mandatory normal working hours are a maximum 9 hours per day and maximum 40 hours a week. Thus, most employees work 8 hours per day Monday-Friday. Shorter working hours may apply according to a generally applicable collective bargaining agreement or a nationally applicable collective bargaining agreement. The working

hours should be stated in the employment contract.

If the conditions are fulfilled the employer may apply average calculation of normal working hours. Average calculation or normal working hours means that the employees may work longer hours per day and week for a specific period, provided

the extra hours put in are taken out in free time.

On average, the employee must not work more than the maximum normal working hours according to the legislation or the applicable collective bargaining agreement.

Before average calculation of working hours can be adopted, certain mandatory requirements must be followed in order for it to be valid. In some cases, average calculation of working hours may require consent from the Norwegian Labor Inspection Authority. In addition, the Norwegian Annual Holiday Act applies.

## Mandatory registration of posted workers

There is currently no registration requirement with the labor authorities or any obligation to appoint a contact representative in Norway as a consequence of the Enforcement Directive.

The Ministry of Labor and Social Affairs did not want to implement such arrangements at the time the Enforcement Directive was implemented without conducting a more thorough assessment of the consequences of imposing such obligations.

The Revised Posted Worker Directive has not yet been implemented in Norway, but the Ministry have announced at a public hearing that they do not plan to implement additional registration schemes.

However, In terms of administrative requirements, in the case of assignments to Norway, the employee must be registered with the Norwegian tax authorities on a specific form (RF-1198).

## Penalties for non-compliance



Breach of the mandatory provisions concerning the minimum wage in the industry sectors with generally applicable collective bargaining agreements may entail compliance/regulatory risk in relation to the Labor Authorities.

The Norwegian Labor Inspection Authority may impose penalties in the form of administrative orders, enforcement fines or non-compliance penalties for severe breaches. The same applies for breaches of mandatory working hour provisions.

The maximum non-compliance penalty that may be issued by the Labor Inspectorate is 15 times the basic national insurance amount (15 G), currently approximately NOK 1 500 000.

Non-compliance with reporting employees on form RF-1198 may entail a penalty of NOK 2 300 for each employee.

The EFTA surveillance authority believes, however, that the duty to report employees on form RF-1198 distorts competition, and violates the principle of freedom to provide services according to Article 36 of the EEA agreement.

The EFTA surveillance authority have therefore concluded that the Norwegian reporting scheme must cease, and it is consequently likely that the reporting obligations related to foreign employees may be subject to change.

Penalties incurred may be unlawful as a consequence of the decision made by the EFTA surveillance authority, and there may be grounds to claim a refund of any penalties paid.

## Public sources of information

Several government agencies have cooperated to launch a website called <https://www.workinnorway.no/en/Home>. This website contains some relevant information with regard to working and/or doing business in Norway.

The Ministry of Labor and Social Affairs has the following webpage: <https://www.regjeringen.no/en/dep/as-d/id165/>

The Norwegian Labor Inspection Authority also has a website <https://arbeidstilsynet.no/en/> which contains relevant information on minimum wage requirements in various industries, working hour regulations as well as health and safety issues in the workplace.

# Poland



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

On 20 August 2020, the Act of 24 July 2020, amending the Act on the posting of workers in the framework of the provision of services and certain other acts incorporating into Polish law the provisions 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, was published in the Polish Journal of Laws (Dziennik Ustaw). Most of the provisions entered into force 14 days after the Act's publication and apply to the postings that started before it was implemented (e.g. when calculating the 12 or 18 month period for changing the labor code provisions).

## Remuneration of posted workers

A posted worker should be remunerated on the same terms as the comparable permanent workers in the host state ("equal pay for equal work").

The requirement of "equal pay for equal work" is associated with the obligation on Member States to provide information on remuneration as laid down by laws, industry, and regional collective agreements, and with the possibility of verifying market benchmarks by employers.

Poland has only set a minimum wage, and therefore salary levels that are in line with the equal pay principle need to be established on the basis of relevant benchmarks.

### Remuneration set at national level

Poland has a minimum wage set at national level. The level of the minimum wage is usually published in September and is applicable from 1 January of the following year.

The minimum wage is a fixed amount determined based on the increase in the price of goods.

As from January 2021 the level of the minimum wage is PLN 2,800 (approximately EUR 622) fixed for both blue collar workers and highly skilled workers, corresponding to full time employment, based on an employment contract only.

For civil law-based contracts the minimum wage equals PLN 18.30 per working hour (approximately EUR 4.1).

In 2020, the minimum wage was PLN 2,600 (approximately EUR 615) for employment contract workers and PLN 18.30 (approximately EUR 4.0) for civil law-based contractors.

### Minimum wage set through collective bargaining agreements

Poland does not have collective bargaining agreements with general applicability.

Given the above, in Poland the minimum wage is set on a national level and does not differ from industry to industry.

Setting a remuneration level for a certain industry will not be precise as the remuneration levels will vary depending from the position of the employee – e.g. blue vs white collar workers.

Thus, the remuneration applicable for all industries is the minimum wage set at national level.



## What can be included in the remuneration

Included in the remuneration	Not included in the remuneration
Basic salary/basic wage	Overtime payments
Seniority allowance	Housing
Bonuses	Transportation costs
Holiday payments	Meal costs
Special payments (Foreign service premium, Hardship premium, Country allowance, Assignment allowance, Cost of Living allowance)	Per-diems, severance payment, night shift payment, social funds payments



## Working hours

The maximum legal working hours in Poland are 8 hours per day, or the equivalent of 40 hours per week.



## Mandatory registration of posted workers

The Polish Seconded Persons Act sets a requirement for foreign employers to appoint a person (who should stay in Poland during the employees' posting period) authorized to represent the foreign company in contacts with the Polish Labor Inspectorate.

An employer posting an employee to Poland, must submit to the Polish Labor Inspectorate a statement containing the information necessary to check the actual situation at the workplace.

The Polish Labor Inspectorate should be notified of any change to the information contained in the statement no later than within 7 working days of the date of the change.

The foreign employer is required to meet these obligations (filing the declaration and nominating a contact person) on the first day the employee works in Poland at the latest.

Statements and information on procedures can be found on the website of the Polish Labor Inspectorate: <https://bit.ly/3oyv1Wa>



Posted workers	Registration (Yes/No/Depends)
Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country **	Yes

*\*As a rule, there is no obligation to register business travelers. However, in the case of intra-company postings, even for short periods or in cases when the individual provides services based on a service agreement concluded between companies, they might be required to register, even if they will spend only a few days in Poland. In general, a business trip is based on the fact that it takes place: outside the regular place where the employer is located or outside the place of work, at the employer's request, in order to perform a specific task set by the employer. All of the above features must be fulfilled jointly; the absence of one of them excludes qualifying the work performed by the employee as a business trip.*

*\*\*Same as for EU postings*

## Determining the 12 month period

The period from the start of the posting will be taken into account even if prior to 30 July 2020. The duration of the posting will also cover a period for

which a posted worker is replaced by another posted worker performing the same task at the same place.

## Documents and legal representation

Foreign employers posting employees to Poland in the framework of the provision of transnational services, are required to hold and keep (during the whole period of the assignment) copies (in electronic format or hardcopy) in an accessible and easy to identify place in Poland, the following documentation:

- 01 The employment contract of a posted employee or other equivalent document certifying employment conditions.
- 02 The working time of a posted worker indicating the commencement and termination of work and the number of hours worked on a given day.
- 03 Documents specifying the remuneration of a posted worker along with the amount of deductions made in accordance with the applicable law and proof of transferring the remuneration to the employee.

During the period of assignment, the employer posting an employee to Poland is required to make the above documentation available on request to the Polish Labor Inspectorate, together with the appropriate translation into Polish, no later than within 5 working days from the date of receiving the request.

The Polish Seconded Persons Act imposes the obligation on foreign employers to appoint a legal representative (who should stay in Poland during the employees' posting period) authorized to represent the foreign company in contacts with the Polish Labor Inspectorate.

The legal representative bears the full responsibility in the case of a labor audit.

This person is authorized to:

- 01 Represent the foreign company in contacts with the Polish Labor Inspectorate.
- 02 Send and receive documents or notifications.

The employer must be able to provide the documents on request from the authorities up to 2 years after the termination of the assignment. The deadline for providing the documentation at the request of the Polish Labor Inspectorate is 15 working days from the date of the request.

The documents should be available in the original language accompanied by a Polish translation. A certified translation may be requested by the authorities.

## Penalties for non-compliance

Penalties of between PLN 1,000 and PLN 30,000 (approx. 200 – 6,500 EUR) can be imposed for multiple offenses against the regulations, including:

- Not appointing a legal representative.
- Not registering or late registration of posted workers.
- Not informing the Polish Labor Inspectorate about any changes that may occur concerning the posting of workers.
- Not keeping the documents for the required

period of time in case of inspection.

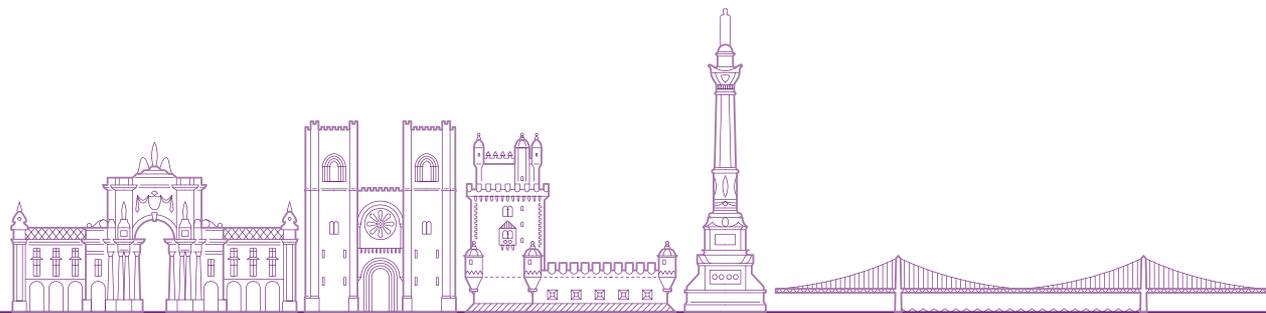
- Not sharing the documents with the Polish Labor Inspectorate when requested,
- Not providing the Polish Labor Inspectorate with the required documents within two years of the end date of the assignment.

The penalties are imposed on the employer and there are no specific fines for each of the offenses listed above.

## Public sources of information

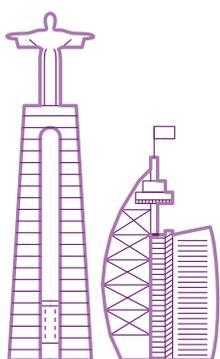
*Ustawa z dnia 10 października 2002 r. o minimalnym wynagrodzeniu za pracę (Dz. U. z 2018 r. poz. 2177 oraz z 2019 r. poz. 1564) – official act of law regulating minimum wage requirements plus implementing acts that are issued each year.*

# Portugal



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Decree Law no. 101-E/2020, of 7 December 2020 amended Law no. 29/2017, of 30 May 2020 transposing Directive 2018/957, concerning the posting of workers, into Portuguese legislation. The legislation was published in the Portuguese Official Journal on 7 December 2020, entering in force as from 8 December 2020.



## Remuneration of posted workers

### Minimum wage at national level

Portugal has a minimum wage requirement which is updated as needed by the economic environment, with no specific timetable.

The current level of the minimum wage, applicable from January 2021, is EUR 665 per month. Previously, as from January 2020, the minimum wage was EUR 635 per month.

The minimum wage does not depend on occupation, industry or age. It is applicable to all employees irrespective of their professional background (i.e. blue collar workers, highly skilled workers and other categories).

### Minimum wage set through collective bargaining agreements

CBAs are possible in Portugal, and these may generate specific provisions applicable for a sector/company.

Portugal does not have collective bargaining agreements with general applicability. Given the above, in Portugal the minimum wage is set at national level and does not differ from industry to industry.

Thus the remuneration applicable for all industries is the minimum wage set at national level.



## What can be included in the remuneration

### Included in the remuneration

- 01 Basic salary/basic wage

### Not included in the remuneration

- 01 Per-diems
- 02 Overtime payments
- 03 Housing
- 04 Transportation costs
- 05 Bonuses
- 06 Special payments (Foreign Service premium, Hardship premium, Country allowance, Assignment allowance, Cost of Living allowance)
- 07 Any other items that are deemed as employment income, and not included above



## Working hours

The maximum legal working time in Portugal is 8 hours per day and 40 hours per week.

## Mandatory registration of posted workers

The employer is required to communicate the posting to the Authority for Working Conditions (ACT) with certain particulars, i.e. the identity of the service provider; the number and identification of the workers to be posted; identification of the liaison person; the estimated duration and estimated dates for the start and end of the posting; the address of the place of work; as well as the nature of the services justifying the posting.

To do this, the employer must use the form available at <https://bit.ly/3oFePsU>  
The communication should be sent to the email: [destacamento@act.gov.pt](mailto:destacamento@act.gov.pt)

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	No information available
Extension of a posting	No information available
Shortening of a posting	No information available
Posting over 12 months	No information available
Business travelers*	No information available
Posting from a non-EU country	No information available

*\* In Portugal, there is no legal definition of "Business travelers". A Business Traveler is understood as being an individual who performs his/her activity in a foreign country for a short period of time (for example, a couple of days) to attend to temporary situations (e.g. meetings, conventions, etc.).*

## Documents and legal representation

The employer is required to keep copies, on paper or in electronic format of: the employment contract, or written document with information on the relevant aspects of the employment contract provided for in the Labor Code; receipts of remuneration; records of working times indicating the start, end and duration of daily working time and proof of the payment of the remuneration.

The employer is required to submit, up to one year after the end of the secondment, the documents referred to in the previous paragraph on request from the relevant authority.

The foreign company must appoint a person to liaise with the relevant authority and to send and receive documents and information and, where appropriate, to liaise with the social partners on collective bargaining.

The documentation and copies, when requested by the authorities, should be presented in Portuguese

or accompanied by a certified translation in accordance with the law.

The copies should be kept for the entire period of the secondment and be available in an accessible and clearly identified place on Portuguese territory, i.e.: at the place of employment indicated in the documentation, at the construction site where the work is carried out, or in the vehicle with which the service is provided.

Documents must be kept for 1 year after the termination of the assignment.

## Penalties for non-compliance



If the service provider fails to declare the posted worker, if the information transmitted is incorrect and/ or incomplete, or if the purchaser and the contractor fail to carry out the appropriate checks on the foreign service provider, they are subject to an administrative fine of maximum € 9 690 per posted worker.

If the declaration does not comply with the form and is not sent to the email above, the service provider is subject to an administrative fine of

maximum € 1 530 per posted worker. Failure to comply with the posting of workers obligations, can also lead to penalties such as administrative fines.

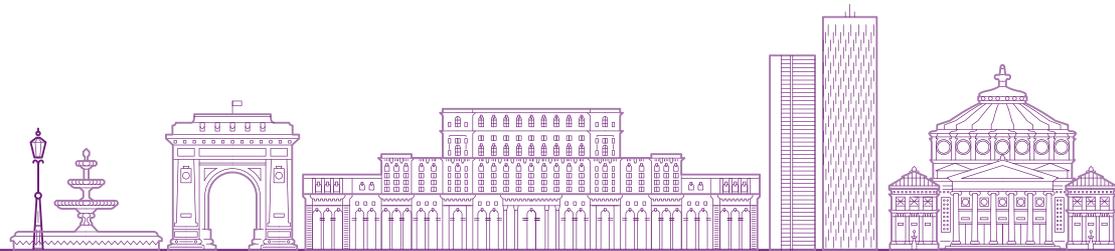
The contractor and the employer are jointly responsible for any net remuneration in arrears corresponding to the minimum legal, conventional or guaranteed labor contract remuneration, due to the posted employee.

## Public sources of information

From a tax perspective, the following websites can be useful:  
Portuguese Tax authorities (Portuguese tax system): <https://bit.ly/3f0FSvh>  
Social Security Authorities website: <http://www.seg-social.pt/inicio>



# Romania



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Law 172/2020 amending Law no. 16/2017 (Romania's law on the posting of employees providing transnational services) transposes Directive 2018/957 into Romanian legislation. Law 172/2020 was published in the Official Journal of Romania on 13 August 2020 and its provisions are applicable as from 16 August 2020.

Law 172/2020 applies to all postings which were still in place as at 16 August 2020, not only to those starting from that date.

## Remuneration of posted workers

### Minimum wage at national level

Starting from 1 January 2021, there are three levels of minimum wage in Romania:

- 2,300 RON per month – standard minimum wage.
- 2,350 RON per month – minimum wage for positions which require university studies and work experience of at least 1 year.
- 3,000 RON per month – minimum wage for the construction sector.

### Minimum wage set through collective bargaining agreements

Romania does not have a collective bargaining agreement with general applicability. However, there may be collective bargaining agreements in place at unit level (with effect only for the companies which apply them).

Minimum wage rates are also established by the applicable collective agreements. However these amounts cannot be lower than the national minimum gross wage.

Given the above, the remuneration applicable for all industries is RON 2.300/2.350 depending on education and experience, except for the construction industry where the applicable remuneration is RON 3.000.



## What can be included in the remuneration

Under the Romanian labor code, wages are defined as basic wages, allowances, benefits as well as other additional payments. At the same time the base wages cannot be lower than the national minimum wage. It is thus considered, that the Romanian minimum wage cannot include cost of living allowances, Foreign Service premiums, bonuses or per – diems.

### Included in the remuneration

- 01 Basic salary/basic wage
- 02 Overtime payments
- 03 Bonuses

### Not included in the remuneration

- 01 Per-diems
- 02 Housing
- 03 Transportation costs
- 04 Meal costs
- 05 Special payments (Foreign service premium, Hardship premium, Country allowance, Assignment allowance)



## Working hours

In Romania the standard working hours are 8 hours per day and 40 hours per week.



## Mandatory registration of posted workers

Undertakings established in an EU or EEA Member State other than Romania or in the Swiss Confederation which post employees to Romania are required to send a declaration on the assignment of employees to the local labor inspectorate in whose area the activity is to be carried out, prior to commencement of the activity.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	Depends
Posting from a non-EU country**	No

\* Romanian legislation does not provide a definition of business travelers. Depending on the purpose of the travel and nature of the activities performed in Romania, these individuals may not qualify as posted workers within the meaning of the Romanian legislation. (e.g. employees present in Romania for training purposes) and thus they may not be subject to the registration requirements applicable to posted workers.

\*\* Romania does not have a registration requirement with respect to postings from non-EU countries under the posting legislation. However immigration registration requirements may be necessary under the immigration legislation.



## Determining the 12 month period



The 12 month period defined by Directive 2018/957 is counted as from 16 August 2020. For assignments which were in progress on the implementation date of the Directive, the 12 month period is counted starting from this date. Any previous period is not considered.

This does not mean that the posting is limited to a period of 12 or 18 months or that after this period a local employment contract must be concluded in

Romania. The posted worker will still be seconded to Romania, but will have certain additional rights specific to national legislation in Romania.

Where the posted worker replaces another posted worker who fulfils the same type of activity in the same place, the 12 month period is determined by totalizing the posting periods of each employee.



## Documents and legal representation

In the case of a labor audit, the home company has to make available the following documents:

- Documents evidencing the total remuneration granted to the posted worker, evidencing separately the posting allowance.
- Assignment related expenses and details of how these are reimbursed.

- Employment contract.
- Proof of payment of the salary income.
- A1 contract.
- Intercompany agreement.
- Additional documents as required by the authorities.

A translation into the Romanian language has to be available. The home company is required to keep



the documents 3 years after termination of the posting.

Romanian law provides for the posting entity to indicate a legal representative in Romania to establish contact with the Romanian authorities.

According to the law, if the entity has no legal representative in Romania, one of the employees seconded to Romania should be designated as a contact person with the Romanian authorities.

## Penalties for non-compliance



According to the law, the Romanian authorities may impose fines (i.e. RON 5,000 – RON 9,000, the equivalent of approximately EUR 1,015 – EUR 1,830, at the exchange rate of 4.92 RON/EUR) for:

- Not submitting the informative form.
- Not holding and making available to labor inspectors on their request legally required documents.
- Not presenting a translation into Romanian of the documents requested.
- Not fulfilling the requirement to designate a person to liaise with the appropriate national authorities and to send and receive documents and / or opinions, if appropriate.

— Not presenting the documents required by the authorities after the termination of the secondment period, at the request of the Labor Inspectorate or of the local labor inspectorates, within a maximum of 20 working days from receipt of the request.

If the informative form is incomplete, or has inaccurate information in the statement, the authorities may issue fines of between RON 3.000 and RON 5.000.

The authorities may also change the social security law applicable and ultimately suspend the seconding company's activity in the relevant member state.

## Public sources of information

<http://www.mmuncii.ro/j33/index.php/ro/legislatie/munca2/2019-mobilitateafortei-de-munca>

<http://www.mmuncii.ro/j33/index.php/ro/>

<https://www.inspectiamuncii.ro/>

<http://www.itmbucuresti.ro/>

# Slovakia



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The National Council of the Slovak Republic approved an amendment to the Labor Code effective as of 30 July 2020.

Under the transitional provisions, the duration of postings started before 30 July 2020 will be considered as having started on 30 July 2020.

## Remuneration of posted workers

### Remuneration set at national level

Slovakia's minimum wage is determined annually through government regulation. The Slovak government passes the regulation in October each year and it enters into force starting from 1 January of the following year.

The minimum wage is determined as a fixed, monthly amount, for employees who are paid monthly and have a regular weekly working time. The minimum wage must be paid out to every employee in an employment relationship.

The lowest minimum monthly wage in Slovakia in 2021 is EUR 623 and for employees where an hourly rate is applicable, the minimum hourly wage is EUR 3.580 in 2021. The minimum wage increases depending on the difficulty and work position, as described below.

### Remuneration set through collective bargaining agreements

Employees whose remuneration terms are not regulated in a collective agreement are eligible to receive at least the minimum wage.

Sector wide, so called higher level collective bargaining agreements can be accessed on the webpage of the Ministry of Labor of the Slovak Republic via the following link (in Slovak only):

<https://bit.ly/3v3TIZ9>

Higher level collective bargaining agreements are concluded between country-wide representative(s) of employees and representative(s) of employers for a specific sector or sectors.

These collective agreements should guarantee more favorable or comparable rights of employees than the statutory minimum set out in the Labor Code. Additionally, there are also collective bargaining agreements concluded between the employers and trade unions, which apply only to the specific company.

Minimum wages, however, do not apply to certain categories, e.g. public servants, civil servants, members of the armed forces, customs officers, fire fighters, judges, and prosecutors.

The level of the minimum wage does not depend on the occupation, but on the type of work (i.e. complexity, responsibility and level of work difficulty). Each position must be classified in one of the six levels of work difficulty.

The minimum wage for each level of work difficulty is determined by multiplying the minimum wage by the index stated for the relevant level of work difficulty. Below you can find the six levels of work difficulty:

There are 6 degrees of difficulty of work position, as follows:

#### 1. EUR 623 per month / EUR 3,580 per hour:

preparatory or handling works according to exact procedures and instructions, assistance, etc.

## 2. EUR 739 per month / EUR 4,247 per hour:

- 01 purposeful service repetitive work or professional repetitive controllable work according to set procedures or operating regimes or work connected with material responsibility;
- 02 performance of simple craft work; performance of sanitation work in health care;
- 03 performance of repeated, controllable work of an administrative, economic administrative nature

## 3. EUR 855 per month / EUR 4,914 per hour

- 01 professional work or independent execution of less complicated agendas;
- 02 independent performance of individual creative craft work;
- 03 management or operative execution of the work of equipment or operating processes connected with higher intellectual exertion with possible responsibility for health and safety of other persons or for damage recoverable only with difficulty, etc.

## 4. EUR 971 per month / EUR 5,580 per hour:

- 01 independent execution of professional agendas or the performance of partial conceptual, systematic and methodical work connected with higher intellectual exertion;
- 02 provision of health care, expert activities in health care with responsibility for health of people;
- 03 management, organisation or the coordination of processes or an extensive range of very complicated equipment with possible responsibility for lives and health of other persons, etc.

## 5. EUR 1 087 per month / EUR 6,247 per hour:

- 01 performance of specialised systematic, conceptual, creative or methodical work with high intellectual exertion;
- 02 complete organisation of the most complicated sections and agendas with determination of new procedures within the system;
- 03 performance of expert and specialised activity in the relevant area of health care with responsibility for the health of people; management, organisation and coordination of very complicated processes and systems including selection and optimization of procedures, etc.

## 6. EUR 1 203 per month / EUR 6,914 per hour:

- 01 solution of creative tasks in an unusual way with unspecified outputs with a high rate of responsibility for damage with the broadest social consequences;
- 02 provision of specialised and certified activities in health care with responsibility for people's health and lives;
- 03 management, organisation and coordination of the most complicated systems with responsibility for unrecoverable material and moral damage with considerable demands on the capacity to solve complicated and conflictive situations usually connected with a general threat to the broadest group of persons.



As the minimum wage level depends on the level of work difficulty, the type of work must be taken into consideration. Highly skilled workers are generally classified in the fifth and sixth level of work difficulty.

For example, for blue collar workers the minimum wage is at least EUR 623 (EUR 580 during 2021) per month, while for highly skilled workers in the sixth level of work difficulty (e.g. workers with a blue card), the minimum wage is at least EUR 1 203 (EUR 1 160 during 2021) per month.

Given the above, considering that the minimum wage does not depend on the industry, but on the job position of the employee, there can be different minimum wage levels for blue collar workers and white collar workers in the same industry.

## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage

Paid Holiday

Food allowance



### Not included in the remuneration

Per-diem

Housing

Transportation costs

Discharge benefit

Contributions from a social fund

Contributions to an employee's life insurance

Compensation for work standby and other

## Working hours

In general, the maximum legal working time in Slovakia is 8 hours per day or 40 hours per week. Special rules apply for working hours of youth workers (under 18 years old), workers performing

work in a high cancer risk environment and healthcare workers as well as for employees working in shifts.

## Mandatory registration of posted workers

The notification obligation of the Assigning Employer should be fulfilled on the first day of assignment, at the latest. It can be submitted electronically (via <https://www.ip.gov.sk/notification-form/>) or in hardcopy.

As well as the notification requirement, the commencement and termination of an assignment must be notified to the appropriate Labor Office through delivery of the Information Card by the recipient of services. The posted worker should also comply with residence obligations (Notification of stay and registration of residence, if applicable) to the Slovak Foreign Police. However, the extent of these obligations depends on the length of the assignment.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months

Yes

Extension of a posting

Yes

Shortening of a posting

No

Posting over 12 months

Yes

Business travelers\*

No

Posting from a non-EU country\*\*

No

\* There is no strict definition of a business traveler in Slovak legislation. Generally, a business traveler carries out work on behalf of the employer and for its benefit, and performance of work on the business trip is not the provision of services, but merely performance of duties according to the employment contract.

\*\* Provided that an EU national employee is posted from a non-EU based company, there is no registration requirement. The posting of a non-EU employee from a non-EU based company is generally not possible due to legislation limitations in Slovakia. In any case, posted worker registration by a non-EU company is not required.

## Determining the 12 month period

The first 12/18 months may be treated as a posting. Postings which started prior to 30 July 2020 will be treated as having started on 30 July 2020.

If an individual is posted for the purpose of replacing another posted worker, their joint length of assignment is considered as one assignment, i.e. after 12/18 months the Slovak legislation conditions must be applied.

## Documents and legal representation



The Assigning Employer is required to notify the Slovak National Inspectorate on assignment of its employees to Slovakia. Within the notification obligation, the Assigning Employee must provide the inspectorate, in particular, with its identification data, number of assigned employees, scope of services to be provided, duration of the assignment (commencement and termination), and place of performance of work by the Posted Employee.

The same information can also be required from the Slovak employer as a recipient of services.

As well as the notification obligation, the Assigning Employer is also required to arrange for placing of certain documentation (employment contract, evidence of work, time and salary paid) at the workplace and release them to the inspectorate upon their request.

Documents have to be kept for 2 years after the termination of the assignment.

The employment contract and Letter of Assignment must be accompanied by at least an unofficial Slovak translation. Notification by the sending company and the A1 form can be in English.

The Assigning Employer must appoint its representative for delivery of documents. This person has to be present in Slovakia during the whole period of the assignment.

It is not mandatory to appoint a legal representative for a labor audit; however, it is strongly recommended. The employer bears responsibility in the case of a labor audit.

## Penalties for non-compliance

Penalties for employers for breaching the obligations related to the Labor Office and the National Labor Inspectorate can be up to EUR 200 000.

Amounts of penalties vary depending on the severity of the breach, which is considered individually in each case. Penalties can be imposed

on employees in leadership positions, statutory representatives or companies, again depending on the severity of the breach.

Penalties for foreigners for breaching the obligations related to the Foreigners' Police can be as follows:

- Financial penalty up to EUR 1 600; and/or
- Penalty of administrative expulsion.

## Public sources of information

Ministry of Labor, Social Affairs and Family  
<https://www.employment.gov.sk/en/>

Central Office of Labor, Social Affairs and Family  
<https://www.upsvr.gov.sk/>

National Labor Inspectorate  
<https://www.ip.gov.sk/home/>

Ministry of Interior of the Slovak Republic  
<http://www.minv.sk/?residence-of-an-foreigner>

# Slovenia



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services has not yet been implemented into Slovene local legislation.

## Remuneration of posted workers

### Remuneration set at national level

Slovenia has a minimum wage requirement and the level is generally updated every year in January. As from 1 January 2021, the level of the minimum wage has been set at EUR 1.024,24 gross per month for full-time work (36-40 hours per week).

No worker in Slovenia should be paid less than this minimum pay rate, irrespective of the individual's professional expertise (e.g. blue-collar workers, highly skilled workers or others). A worker working part time is entitled to a proportionate share of the minimum wage.

The minimum wage is determined as a fixed amount and is based on economic factors, such as growth of retail prices, change in salaries, economic growth and changes in employment.

### Remuneration set through collective bargaining agreements

Since January 2020, the minimum wage has not included any allowances determined by laws or other regulations and collective agreements, part of salary for work performance or payment for business performance agreed in the collective agreement or employment contract.

Consequently,, the same minimum wage applies to all workers in Slovenia, regardless of industry.



## What can be included in the remuneration

The minimum wage requirement covers the following remuneration components:

### Included in the remuneration

- 01 Basic salary/basic wage

### Not included in the remuneration

- 01 All wage supplements (e.g. for years of service, for night work, for work in shifts, for work on Sundays, for work on public holidays and work-free days determined by law, for overtime work)
- 02 Performance bonuses (whether based on individual or company performance success), Holiday allowance, severance payments, jubilee awards
- 03 Transportation costs i.e. commuting expenses for travel to and from work
- 04 Meal allowances
- 05 Housing
- 06 Business trip expenses
- 07 Per-diems
- 08 Special payments (Foreign Service premium, Hardship premium, Country allowance, Assignment allowance, Cost of living allowance)

The amount of the minimum wage is determined in the range between 120% and 140% of the minimum costs of living, taking into account the growth of consumer prices, wage developments, economic conditions or economic growth and the state of the labor market and taking into account tax

regulations that allow determination of the gross amount of the minimum wage. The amount of the minimum wage is published every year in the Official Journal of the Republic of Slovenia by the end of January.

## Working hours

The maximum legal working time in Slovenia is 40 hours per week

## Mandatory registration of posted workers

The foreign employer must notify the posting to the Employment Service of Slovenia by submitting a statement concerning provision of services in

Slovenia (at least one day prior to the start of the posting). The Employment Service of Slovenia issues a certificate of registration.



### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	No
Posting from a non-EU country	Yes

\* Slovene legislation does not provide a definition of a business traveler.

Additionally, Form A1 must be obtained from the home social security authorities and a residence permit must be issued.

## Documents and legal representation

Documents must be kept for 24 months after the termination of the assignment. In addition to the original language, a translation into the Slovenian language must be available.

The foreign employer should made available on request from the supervisory body the following documentation:

1. A copy of the act of posting or a copy of the contract between the client and the foreign employer with a translation into Slovenian.
2. A certificate of submitted registration of the provision of services.
3. A certificate of completed application, in accordance with the law governing craft activities.
4. An extract from the relevant register for performing activities with translation into Slovenian.
5. A certificate of establishment in the country of employment with translation into Slovenian.
6. Copies of employment contracts with translation into Slovenian.
7. Copies of pay slips with translation into Slovenian.
8. Register of presence with translation into Slovenian.
9. Documents concerning health and safety at work with translation into Slovenian.
10. Proof of paid salaries or copies of equivalent documents for all posted workers with a translation into Slovenian,
11. An A1 certificate or other appropriate certificate issued in accordance with valid international agreements on social insurance, which are binding in the Republic of Slovenia.

## Penalties for non-compliance

A fine of between EUR 6,000 and EUR 60,000 can be imposed on a foreign employer that performs services abroad without fulfilling the conditions (as stipulated in Article 12 of the Transnational Provision of Services Act). A fine of between EUR 600 and EUR 6,000 can be imposed on the responsible person who represents the employer. If an employer does not comply with the registration requirement or does not perform the service registered, or does not keep the correct documentation for review by the supervisory body, fines may be imposed of between EUR 2,000 and 20,000 on the foreign employer and between EUR 200 and 2,000 on the responsible person who represents the employer. A lower fine can be imposed under the rapid procedure.

According to the Employment Relationships Act, a fine may be imposed for non-compliance with the minimum employment standards (working hours, breaks and rest, night work, minimum salary, holiday allowance, ...) of between EUR 3,000 and EUR 20,000 for a large employer, between EUR 1.500 and EUR 8.000 for a small employer, between EUR 450 and EUR 1.200 for an individual employer and between EUR 1.500 and EUR 8.000 for the responsible person who represents the employer or the responsible person employed by the state authority.

According to the Labor Market Regulation Act, a fine of between EUR 10,000 and EUR 30,000 can be imposed on an employer which provides workers, if the employer does not guarantee the posted worker all the rights arising from the employment relationship during the period of employment, prevents the posted worker from concluding an employment relationship with the user after the expiry of the time of providing work, requires the posted worker to perform work in the framework of other activities for which he/she is registered or demands payment or other reimbursement from the posted worker, etc.

For employers which employ less than 10 workers, these fines are reduced to between EUR 5,000 and EUR 10,000 for the employer and EUR 4,000 for the responsible person who represents the employer.

A fine of between EUR 10,000 and EUR 30,000 euros can be imposed on a user if at the time of posting it does not act in accordance with the regulations governing employment relationships, does not enable the posted worker to become acquainted with vacancies or types of work at the user, does not provide the posted worker with the same opportunities for employment for an indefinite period with the user as is already possible for already employed workers with the user or accepts a posted worker from an employer who performs an activity and does not have a permit to perform the activity and is not entered in the register or records.

For employers which employ less than 10 workers, these fines are reduced to between EUR 5,000 and EUR 10,000 for the employer and EUR 4,000 for the responsible person who represents the employer.

## Public sources of information

Information about collective bargaining agreements and/or other industry specific agreements can be found on the Ministry of Labor, Family, Social Affairs and Equal Opportunities web page as well as on the web page of the Association of Employers of Slovenia.

Public information sources on the obligations of foreign entities assigning personnel to Slovenia can be found on the Financial Administration of the Republic of Slovenia web page or on the Health Insurance Institute of Slovenia web page.

# Spain



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

On 18 January 2021, the Council of Ministers approved the Draft Law amending Law 45/1999 on the movement of workers in the context of the provision of transnational services, as well as other labor laws, for the transposition of Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018.

The purpose of this Law is to supplement the transposition of Directive (EU) 2018/957 of the European Parliament and of the Council amending Directive 96/71/EC adopted to move towards more equitable treatment between displaced persons and workers in the state of destination.

## Remuneration of posted workers

### Remuneration set at national level

There is a minimum wage requirement in Spain, which is set by the government. For 2021, the minimum wage is EUR 950 /month for fourteen payments (EUR 31.66 per day). Thus, the 12-month pro rata would result in a minimum wage of EUR 1,108 per month, and the minimum wage corresponding to half a working day is 475 euros per month.

The minimum wage set by the government is applicable as from 1 January and it is updated every year. It is a fixed amount.

The minimum wage does not depend on the occupation, industry or the age of the employee. It is set depending on agreement between the government, the most representative unions and employers.

The minimum wage does not distinguish between blue collar, highly skilled or other types of workers, as it is a fixed amount.

### Remuneration set through collective bargaining agreements

Collective bargaining agreements (national, regional or sectional), usually set a different minimum wage requirement, depending on the activity or professional category, which is always higher than the one set by the government.

Collective bargaining agreements set the minimum wage for a fixed period too, generally for one year. Collective bargaining agreements can determine other remuneration systems. Generally, collective bargaining agreements set a fixed amount and, in addition, set out other amounts that depend on productivity, seniority, etc.

The minimum wage set by collective bargaining agreements can be based on other criteria such as occupation or position in the company, as it depends on the sector.

Collective bargaining agreements usually set a level of minimum wage depending on the category of the employee.

Given the above, in order to establish a general remuneration level for each industry, various factors should be considered: the territorial scope of the company, the functions carried out by the worker, the professional category according to the collective agreement, etc.



## What can be included in the remuneration



The minimum wage requirement covers especially the following remuneration components:

### Included in the remuneration

Basic salary/basic wage

Overtime payments

### Not included in the remuneration

Per-diems

Housing

Transportation costs

Meal costs

Special payments (Foreign service premium, Hardship premium, Country allowance, Assignment allowance, cost of living allowance)

## Working hours

The Spanish Workers Statute establishes a maximum of 9h per day and 40h per week. However, the duration of the working day or week may be different, depending on the applicable collective bargaining agreement.

## Mandatory registration of posted workers

The employer is required to communicate the posting electronically to the corresponding authority according to the area of the country where the services are provided. This communication must be made by the Spanish company in Spain, before the displacement is effective.

The communication should be established as follows:

- By electronic means, in the way that is determined by the Spanish regulation establishing one electronic central registry for the Ministry of Labor, Employment and Social Security, according to the Autonomous Communities.

The posting communication should contain the following data and information:

- The identification and fiscal domicile of the company which posts the employee
- The personal and professional data of the posted employee
- The identification of the company that posts the employee
- The start date and duration of the posting
- The job description of the posted employee

- The identification data and contract of the person who will be designated as the representative contact person with the appropriate Spanish authority
- The identification data of a person that can act in Spain in relation to a process of information that affects displaced employees

If the company which posts the employee to Spain is a Temporary Employee Agency (TEA), the employee will also be subject to the rules on posted employees, and the company will need to file the following documents:

- Accreditation document as a Temporary Employee Agency (TEA)
- Justification of the temporary needs of the user \ undertaking, which will be

### Posted workers

Posting up to 12 months

Extension of a posting

Shortening of a posting

Posting over 12 months

Business travelers

Posting from a non-EU country\*

### Registration (Yes/No/Depends)

Yes

Yes

Yes

Yes

Yes

No

*Citizens of non-EU countries wishing to stay in Spain for more than three months must apply for a Residency Permit/Card (Tarjeta de Residencia) within 30 days of arriving in the country. The application must be made at the Foreigner's Office (Oficina de Extranjeros) or local police station in the province of intended residence.*

The following documentation is required when applying for a Tarjeta de Residencia:

- Valid passport and photocopy
- Three passport-size color photographs

- Completed application form and three copies
- Proof of address in Spain
- Receipt for payment of an administration fee, stamped by the bank

## Determining the 12 month period



According to Art 3.6 of Law 45/1999, the duration of the posting should be calculated in a reference period of one year from the outset, including the duration of posting of another previously posted worker which the new posted worker has replaced.

The draft law provides for the application of Spanish legislation for long-term movements of

more than 12 months, which can be extended to 18 months in the event of a reasoned notification to the appropriate labour authority.

Rules are laid down for the calculation of the posting period in the event of short interruptions or replacement by another posted worker.

## Documents and legal representation

These documents must be delivered in Spanish or other official languages upon request of the authorities.

These documents must be retained up to up to 4 years after the termination of assignment.

According to Article 6 of Law 45/1999: Employers must have available, the following documents:

- The employment contracts
- Each worker's salary receipts and proof of payment of wages to every worker.
- The time records that have been made, with the indication of the beginning, the end and duration of each working day.
- The document attesting to the authorization to work for nationals of countries in accordance with the laws of the State of establishment.

Employers should notify the Labor Authority if the posted workers suffer any health problems during their assignment or as a result of their assignment in Spain.

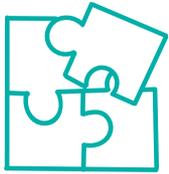
According to Article 5 of Law 45/1999: the posting communication should contain the following information:

- The identification and contact details of an individual or legal entity present in Spain who is designated by the company as its representative to serve as a liaison with the relevant Spanish authorities and for the sending and receiving of documents or notifications, if this is necessary.
- The identification and contract details of a person who can act in Spain on behalf of the service provider in the procedures for informing and processing workers, and negotiation, affecting the workers concerned.

According to Article 10.2. of the Draft Law, the following is considered a serious offense:

- The presentation of the communication of posting after its beginning or without designating the representative of the company that serves as a liaison with the relevant Spanish authorities. The representative must be a person who can act in Spain on behalf of the company, as well as a person who can give explanations to the appropriate authorities of the reasons for any extension of the posting.

## Penalties for non-compliance



According to the provisions of the Royal Decree-Law, compliance is enforced by the inspectorate of Work and Social Security. Breaches are penalized according to the Act of Criminal Offenses against the Social Order and Penalties are as follows:

### Serious offenses: (fines of between € 626 and € 6,250):

- 1 The presentation of the communication of the posting after the effective date or without designating the company's representative who will serve as a contact with the appropriate Spanish authorities, or a person who can act in Spain, to provide information and consultation for employees and negotiations on behalf of posted employees in Spain.
- 2 Failure to hold the posting documentation according to Spanish legal provisions
- 3 Failure to inform the labor authorities on time or in the correct format of serious accidents which result in death or injury.

- 4 Failure to present the documentation required by the Inspectorate of Work and Social Security or to present any document without a translation.

### Very serious offenses: (fines of between € 6,251 and € 187,515):

- 1 Lack of a posting communication
- 2 Falsehood or concealment of posting data

The level of the fines is based on different criteria (number of employees affected, whether it is a repeat offense etc.)

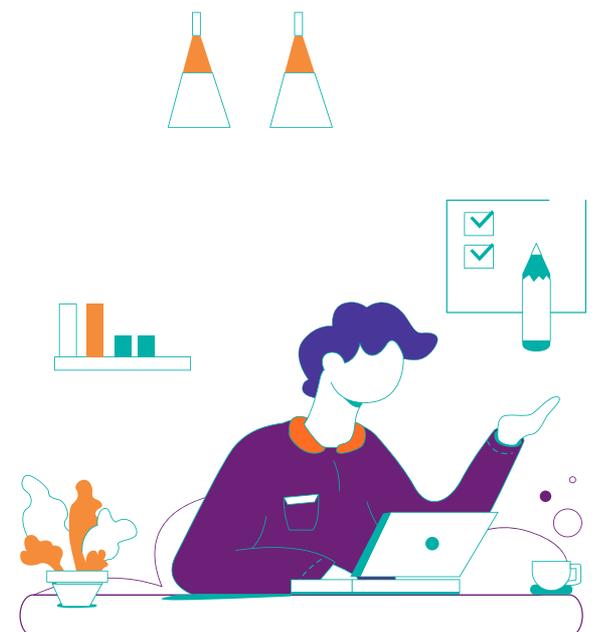
A liaison person/ representative in relations with the relevant labor authorities may act with a power of attorney issued by a notary.

## Public sources of information

<http://www.seg-social.es/wps/portal/wss/internet/InformacionUtil/32078/32253/1437/1440>

APL transposición Directiva 2018-957  
30.11.2020.docx (mites.gob.es)

MAIN APL transposición Directiva 2018-957  
30.11.2020.docx (mites.gob.es)



# Sweden



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 was implemented into local legislation by amendments to the Swedish Posting of Workers Act (SFS 1999:678) (Sw. Lag (1999:678) om utstationering av arbetstagare), and it is applicable as from 30 July 2020. However, the period from the start of the posting will be taken into account even if prior to 30 July 2020.



## Remuneration of posted workers

Applicable remuneration is longer limited to the minimum salary. A posted worker should be entitled to the same salary level as a Swedish worker.

### Remuneration set at national level

In Sweden, there is no minimum remuneration set by law.

### Remuneration set through collective bargaining agreements

Remuneration may be stipulated in Swedish collective bargaining agreements concluded between employer organizations and trade unions.

The collective bargaining agreements apply to employers which have entered into such agreements. The contents of the agreements vary from industry to industry. There are no collective bargaining agreements with general applicability in Sweden.

For further information about what remuneration level or holiday etc. applies for posted workers or the content of a specific collective agreement, the organizations listed below may provide such information. It should be noted that additional and/or other collective bargaining agreements may be applicable.

#### Industry

Automotive/Engineering sector companies

#### Employer organisations

Association of Swedish Engineering Industries (Teknikföretagen)  
<https://www.teknikforetagen.se/>

#### Trade unions

Unionen  
<https://www.unionen.se/>  
The Swedish Association of Graduate Engineers (Sveriges ingenjörer)  
<https://www.sverigesingenjorer.se/>

Telecom/IT

Swedish IT and Telecom Industries (IT&Telekomföretagen)  
<https://www.itot.se/>

Unionen  
<https://www.unionen.se/>  
The Swedish Association of Graduate Engineers (Sveriges ingenjörer)  
<https://www.sverigesingenjorer.se/>  
Akavia  
<https://www.akavia.se/>



## Industry

Construction

## Employer organisations

The Swedish Construction Federation (Byggföretagen)  
<https://byggforetagen.se/>

## Trade unions

Swedish Construction Workers' Union (Byggnads)  
<https://www.byggnads.se/>

Oil & gas

Energigas Sverige  
<https://www.energigas.se/>

IF Metall  
<https://www.ifmetall.se/>  
 Unionen  
<https://www.unionen.se/>  
 The Swedish Association of Graduate Engineers (Sveriges ingenjörer)  
<https://www.sverigesingenjorer.se/>

## What can be included in the remuneration

Posting-related compensation for travel, accommodation, and meals should not be counted when assessing the required remuneration.

## Working hours

The legal working hours are 8 hours per day or 40 hours per week. Overtime and standby time may be allowed within certain limits.

## Mandatory registration of posted workers

Foreign employers must report every posting to the Swedish Work Environment Authority and appoint a contact person in Sweden no later than the date the posting begins. The previous 5-day limit has consequently been shortened.

Foreign employers must provide documentation to the recipient of services in Sweden that the posting has been reported.

Recipients of services in Sweden must notify the Swedish Work Environment Authority if they do not

receive documentation from the employer that the posting was reported.

The notification can be filed online, on the Swedish Work Environment Authority's website. Please visit <https://www.av.se/en/report-a-posting>

## Posted workers

## Registration (Yes/No/Depends)

Posting up to 12 months	Yes
Extension of a posting	Yes
Shortening of a posting	Yes
Posting over 12 months	Yes
Business travelers*	No
Posting from a non-EU country**	Yes

\* We have defined a business traveler as a person who is visiting Sweden on behalf of the home country employer, without delivering a service to a Swedish recipient. If there is no service recipient in Sweden, no PWD registration is required. The Swedish posting of workers rules do not give a definition of a business traveler. There is no general exemption for business travelers as such, hence the general criteria should apply.

\*\* The Swedish rules are not limited to the EU; all nationalities are covered. All foreign employees who are posted to Sweden must be registered with the Swedish Work Environment Authority. Non-EU nationals are not exempted from this requirement.

## Determining the 12 month period

The period from the start of the posting will be taken into account even if prior to 30 July 2020.

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## Documents and legal representation

If bound by a collective bargaining agreement that regulates the conditions for posted workers, the employer should, at the request of the employee's organization, provide following:

- Documents in the form of employment contracts, salary specifications, time reports and certificates of salary payments made.
- Translation of the documents into Swedish, or English if the employer prefers it, in cases where the documents are written in another language.

The documents and the translations should be provided to the extent necessary for the employee organization to be able to assess whether the collective bargaining agreement has been complied with.

The obligations to provide the documents should be fulfilled within three weeks of the request and apply during the time that the posted worker is posted in Sweden and for four months thereafter.

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## Penalties for non-compliance

If the employer or the recipient of the services does not comply with the notification requirements, a penalty fine of SEK 20,000 per posted worker can be imposed.

The punitive fine should be levied irrespective of whether the breach was intentional or negligent. If the report is incorrect or incomplete the Swedish Work Environment Authority may decide upon an injunction which is an order for the employer to

correct the deficiencies. The same applies if the reported information is not updated. The employer may also apply for an injunction if the contact person does not perform his or her tasks according to the regulations.

Furthermore, a breach of a collective bargaining agreement may in some cases result in an obligation to pay compensation for the losses incurred.

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## Public sources of information

More information, in English:  
<https://www.av.se/en/>





# Switzerland



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

Directive 2018/957 itself has not been implemented in Switzerland, but similar regulations have been in place for many years.



## Remuneration of posted workers

### Remuneration set at national level

Switzerland does not have a minimum wage set at national level.

### Remuneration set through collective bargaining agreements

Minimum wage requirements are set out for specific industries in hundreds of collective labor schemes (some of which are generally binding and therefore mandatorily apply to all employees working in Switzerland whether or not the employer or its Swiss host group company is a party to the scheme).

In Switzerland, there are currently over 70 generally binding collective bargaining agreements in place. In order to assess whether a collective bargaining agreement is applicable to the work performed in Switzerland, a case by case assessment will always be required.

The most important generally binding collective bargaining agreements are for staff leasing, construction and hotels/restaurants.

### Swiss reference salary

Apart from the above and regardless of the type of industry and work performed in Switzerland, the following applies without exception: Employees

who are employed outside Switzerland and are supposed to work in Switzerland as assignees must be paid a salary for the time in Switzerland which is in line with the customs in the relevant Swiss canton, industry and profession (the so-called Swiss reference salary). The Swiss immigration authorities always check on the salary requirements when processing a work permit application.

In addition, in the event of labor inspections in Switzerland on site, the employer may be required to provide evidence to the authorities that the salary (plus expenses) outlined in the work permit application and supporting documents is actually being paid (by providing pay slips, records of expense compensation payment, etc.).

All 26 Swiss cantons apply their own standard salary levels, meaning that when determining a relevant reference salary every case is analyzed individually. All cantons, however, base their assessment on their statistical reference salaries for comparable Swiss employees in their geographical area.

This means that for all sorts of activities and groups of employees they apply a statistical reference salary range and usually request the assigning employer to pay the average of the statistical salary range to the employee.

If a salary turns out not to be sufficient during the work application process, time consuming negotiations with the authorities on the adjustment payments and drafting and signing of new supporting documents are required.

The minimum wage is determined either (i) based on the provisions of potentially applicable collective labor scheme(s) or (ii) in the case of assignees for whom no collective labor scheme applies, individually on a case by case basis.

For assignees for whom no collective labor scheme applies, the following main criteria must be taken into consideration:

- Specific role/activities/ responsibilities when working in Switzerland;
- Age.
- Job grade.
- Overall level of occupation (e.g. 50%, 80%, 100%).
- Weekly hours of work as per employment/assignment contract.
- Qualification level (highest educational and professional certificate).
- Overall professional experience.

- Service for the applying employer.
- Number of employees employed by the Swiss group entity.
- Work location, since the reference salary differs from canton to canton.

Given the above, since a wide variety of factors have to be taken into account when calculating wages, it is not possible to establish the salary applicable for a certain industry.

## What can be included in the remuneration

### Included in the remuneration

Basic salary/basic wage

Per-diems (to the extent that these are not compensation for the assignment related expenses)

Overtime payments

Bonuses may only be included in the minimum wage, if they are a fixed amount that is guaranteed / a non-variable part of the salary.

Special payments (Foreign Service premium, Hardship premium, Country allowance, Assignment allowance, Cost of Living allowance)

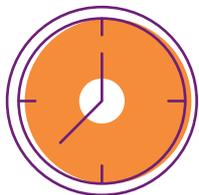
### Not included in the remuneration

Per-diems (to the extent that these are compensation for the assignment related expenses)

Housing

Transportation costs

Meal costs



## Working hours

In Switzerland, the maximum legal working hours per day/week depends on the specific activity and industry. If no generally binding collective bargaining

agreement applies, the maximum weekly working hours for office staff is 45 hours and for all other staff 50 hours.

## Mandatory registration of posted workers

According to the Agreement on the Free Movement of Persons between the EU and Switzerland (FMAP) employees to be temporarily assigned to a group company or client in Switzerland are entitled to perform work in Switzerland if:

- The assigning home company is located in an EU/EFTA state.

- The employee is an EU/EFTA national or a non-EU/EFTA national who has been legally admitted to the EU/EFTA labor market for at least the past 12 months.
- There are sufficient online notification days left (90 working days per assigning home company, employee and calendar year).

In such cases, the simple, fast and government fee free online notification process replaces the formal work permit application process.

In all other cases, however, there is no entitlement to perform an assignment in Switzerland. Consequently, a

formal application procedure applies and the granting of the required permits remains at the sole discretion of the relevant cantonal and federal immigration authorities.

Undertakings established in an EU/EFTA state, which can make use of the online notification procedure, need to submit the notification at least 8 days prior to commencement of the activity in Switzerland.

The online notification can be completed in German, French, Italian or English and can be submitted here ([admin.ch](http://admin.ch)).

The table below gives an overview of the notification system in Switzerland. However this does not truly match the system for the online notification in Switzerland given that the PWD is not applicable.

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months*	Yes
Extension of a posting	Yes
Shortening of a posting**	Yes
Posting over 12 months***	No
Business travelers*	Yes
Posting from a non-EU country**	No

\* Yes, but only up to 90 days per calendar year per employer and employee. After 90 days a formal work permit will be required.

\*\* Recommended, as registration days from the 90 days quota will otherwise be lost.

\*\*\* No. A formal work permit will be required.

\*\*\*\* Yes, but only up to 90 days per calendar year per employer and employee. After 90 days, a formal work permit will be required. In principle, every activity performed in Switzerland that is usually performed against salary, qualifies as gainful employment and must be notified.

\*\*\*\* No, a formal work permit will most likely need to be applied for.



In the case of a labor audit, the employer must generally prove that the Swiss minimum work- and salary conditions were met during the posting.

For this purpose, the employer will most likely have to submit the wage and expense statements as well as the time sheets of the posted employees.

Further documents will be requested depending on the inspecting authority.

It is not necessary to appoint a legal representative in Switzerland, but a contact person at the place of work in Switzerland must be indicated in the online notification.

## Penalties for non-compliance

Failing to comply with Swiss immigration rules (e.g. Swiss reference salary, assignment expenses, working conditions, notification or work permit requirement) may lead to fines, criminal penalties, assignment bans, black listing on official publicly accessible authority websites, reputational damage, loss of employer attractiveness and employee/client trust. The employer may be liable to the following:

- ① Subsequent payment of the salary gap claimed.
- ② Obligation to pay the cost of enforcement proceedings.
- ③ Administrative penalties:
  - in less serious cases, a fine up to CHF 5,000;
  - in serious cases of breach or non-payment of the above-mentioned fine, the employer may be prohibited from offering its services in Switzerland for 1 to 5 years.
- ④ Criminal penalties:
  - A fine with a maximum amount of CHF 40,000;
  - A fine with a maximum amount of CHF 1 million, for serious and systematic cases in which the employer, with the intention of self-enrichment, has not guaranteed to the employee the minimum conditions set out by law.
  - Penalties set out in a generally binding collective bargaining agreement



In less serious cases, the authorities may drop criminal proceedings.

Criminal penalties may also apply against an individual who enters, stays or works in Switzerland without a valid visa or work and residence permit. Depending on the seriousness of the case, the penalties can range from fines to imprisonment.

In practice, labor inspections on site may be carried out. Minor violations of the immigration regulations are usually penalized with a fine (or in the case of a first-time, minor violation, a warning may be given). In the case of major violations, the above-mentioned more serious penalties may be imposed.

## Public sources of information

Please find links detailing generally binding collective bargaining agreements in Switzerland:

[https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit\\_Arbeitsbeziehungen/Gesamtarbeitsvertraege\\_Normalarbeitsvertraege/Gesamtarbeitsvertraege\\_Bund/Allgemeinverbindlich\\_erklaerte\\_Gesamtarbeitsvertraege.html](https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit_Arbeitsbeziehungen/Gesamtarbeitsvertraege_Normalarbeitsvertraege/Gesamtarbeitsvertraege_Bund/Allgemeinverbindlich_erklaerte_Gesamtarbeitsvertraege.html)

[https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit\\_Arbeitsbeziehungen/Gesamtarbeitsvertraege\\_Normalarbeitsvertraege/Gesamtarbeitsvertraege\\_Kantone.html](https://www.seco.admin.ch/seco/de/home/Arbeit/Personenfreizugigkeit_Arbeitsbeziehungen/Gesamtarbeitsvertraege_Normalarbeitsvertraege/Gesamtarbeitsvertraege_Kantone.html)

# United Kingdom



## Implementation of Directive 2018/957 amending Directive 96/71/EU concerning the posting of workers in the framework of the provision of services

The UK has complied with the need to implement the 2018 Directive by issuing the Posted Workers (Agency Workers) Regulations 2020 which came into force on 30 July 2020 (the date set by the Directive). The regulations state that:

a hirer that proposes to post an agency worker for a limited period to a Member State should inform the temporary work agency of the location and proposed start date of the posting a reasonable time before the posting is due to commence

a temporary work agency is allowed to bring a claim in the Employment Tribunal against the hirer to recover any losses the agency may suffer as a result of a penalty imposed by a Member State for failure to comply with the provisions of Directive (EU) 2018/957 or the Posted Workers Directive;

the temporary work agency is prevented from bringing such a claim if it is pursuing such losses through other civil proceedings.



## Remuneration of posted workers

Applicable remuneration is longer limited to the minimum salary. A posted worker should be entitled to the same salary level as a Swedish worker.

### Remuneration set at national level

The United Kingdom has a National Minimum Wage ('NMW'). Historically, NMW rates used to change annually on 1 October. However, in April 2016, the Government introduced the National Living Wage ('NLW') which applies to workers aged 25 and over. Since April 2017, NLW and NMW rates are reviewed and increased at the same time and are both determined as an hourly rate of pay. Since 6 April 2016, a mandatory NLW has applied to workers aged 25 and over. The NMW applies for workers aged 24 and under.

For NMW purposes, the pay allocated to a pay reference period in the UK is any pay which is:

- Received during that period.
- Earned in that period but not received until the next pay reference period.

The pay in the period will consist of the total eligible earnings for NMW purposes and it is not limited to the hourly rate received by the individual.

The NMW is calculated by dividing pay by the number of actual hours worked in the relevant pay reference period.

The legislation in relation to the minimum wage is extremely complex. The calculation of the NMW may be further affected by the worker type (as determined by their contract of employment e.g. hourly paid or salaried worker), the working practices in operation and how working time is identified and captured for payroll purposes.

The level of the minimum wage is determined based on the age of the worker and whether the individual is employed as an apprentice.

Year	Apprentice	Under 18	18 -20	21 to 24	NLW 25 and over
April 2020 (current rate)	£4.15	£4.55	£6.45	£8.20	<b>£8.72</b>
Rate from April 2021	£4.30	£4.62	£6.56	£8.36	<b>£8.91</b>

Apprentices are entitled to the apprentice rate if they are either:

- Under 19
- 19 and above and in the first year of their apprenticeship

Apprentices aged 19 or above who have completed the first year of their apprenticeship are entitled to the minimum wage rate for their age.

## Work experience

Refers to a specified period of time that a person spends in a business, during which they have an opportunity to learn directly about working life and the working environment. The nature and arrangements for work experience vary and an individual's entitlement to the NMW will depend on whether the work experience offered makes the individual a worker for NMW purposes.

Circumstances in which the minimum wage is not applicable:

- Government training schemes or European Union Programmes: if a person is doing work experience as part of a government scheme to provide training, work experience or temporary work.
- Work experience as part of an education course – a person doing work experience which is a requirement of a higher or further education course for less than one year is not eligible for the minimum wage.
- Volunteers.

## Remunerations set through collective bargaining agreements

Collective bargaining agreements are relatively rare in the UK except in certain sectors. Consequently, most employers will be unaffected by collective bargaining agreements. Where they do exist, collective bargaining agreements are generally agreed on an employer by employer basis (rather than a sector basis).

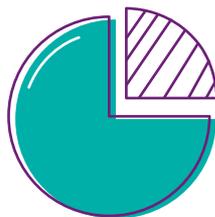
## What can be included in the remuneration

### Included in the remuneration\*

Basic salary/basic wage

Overtime payments (in some circumstances only the basic rate is included)

Bonuses



### Not included in the remuneration\*

Per-diems

Benefits in kind (other than provision of accommodation in some cases)

Travel expenses

Allowances which are not consolidated into the worker's standard pay (Foreign service premium, Hardship premium, Country allowance, Assignment allowance, cost of living allowance, meal allowances)

Advances of wages

Tips and gratuities

*\*please note these are for example only and are not exhaustive lists*

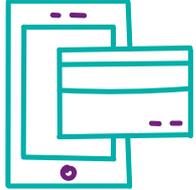
## Working hours

In general, workers cannot be made to work more than 48 hours per week on average or more than 6 hours without a rest break. In most cases, workers are also entitled to an 11 hour gap between shifts. In the UK, workers can consent to opt out of the 48 hour maximum working week. An employee can withdraw their consent to opt out at any time by

giving notice to their employer. The required notice period cannot be longer than 3 months.

It is important to be aware that working time for NMW purposes may not always be defined in the same way as working time for the purposes of the Working Time Regulations 1998.

## Mandatory registration of posted workers



There are no labor registration requirements in the UK, unless the posted worker is directly employed by an employment agency. Workers will still be required to be registered with the tax authorities and (if applicable) the immigration authorities.

Every employer in the UK has an obligation to ensure that their workers/employees have the right to work in the UK.

There is a requirement to retain employment/assignment related documentation for the duration of the employee's working

arrangements and copies must also be stored on the posted worker's file, in particular:

- Passport (front cover and photo page).
- Visa (vignette page in passport stating entry \ clearance & expiry dates) and supporting documents.
- Contract of employment.
- Most recent P.60 and/or detail of salary/stipend provided.
- Accurate contact details including migrant name, address and telephone numbers.
- National insurance details (photocopy of NI card).

### Posted workers

### Registration (Yes/No/Depends)

Posting up to 12 months	No information available
Extension of a posting	No information available
Shortening of a posting	No information available
Posting over 12 months	No information available
Business travelers	No information available
Posting from a non-EU country	No information available

## Penalties for non-compliance

In the case of non-compliance with the minimum wage requirements and enforcement by the regulator (HMRC) the employer might be required to:

- Repay arrears of the minimum wage (going back up to 6 years) to each worker, to be paid at the current minimum wage rate.
- Pay a penalty.

## Public sources of information

Please see this link for further information about NMW and NLW rates:

<https://www.gov.uk/national-minimum-wage-rates>



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