

Tools to support the monitoring of posted workers in the Baltic and the Nordic countries

Kristin Alsos

The EU's Enforcement Directive (2014/67) was to be transposed into national law by the Member States and EEA/EFTA States by 18 June 2016. Aiming to ensure that the rules on posting apply uniformly across national borders, the Directive provides different tools to promote its purpose. Among the key national enforcement actors are the Labour Inspectorates. In this Brief we give an overview of the transposition of the Directive into national law in the Nordic (except Sweden) and the Baltic States. A more detailed description can be found in Fafo Working Paper 2023:10.

The Enforcement Directive

Posted workers are employees sent by their employers to temporarily work in another EU or EEA member state. The workers are granted certain minimum rights regarding wages and working conditions through the Posting of Workers Directive (PWD). The number of posted workers in the EU has steadily increased, reaching over 4.5 million in 2019 (De Wispelaere, De Smedt and Pacolet 2022).

However, challenges have arisen in implementing and regulating the rights of posted workers, including wages, exploitation of regulatory loopholes, and cooperation between authorities. To address these issues, the Enforcement Directive (2014/67/EU) was adopted in 2014, aiming to ensure uniform application of posting rules across borders. It provides a more detailed definition of posting and defines the Member States' responsibilities to verify compli-

ance with the PWD. Further, it aims to achieve better transnational cooperation between authorities, by laying down an obligation to respond to requests for assistance and setting time limits for responses to information requests across borders. Finally, the Directive enables administrative penalties and fines imposed on service providers by one Member State to be enforced by and recovered in another Member State

Transposition

Each country has established its own national legislation to comply with the directive. There is significant variation in how these countries have implemented the directive. Most countries (excluding Norway) have established a register to which posting employers must notify the posting. These

Transposition in the different countries and other regulations of importance

Country	Main national legislation
Denmark	Act on Posting of Workers etc., i.e. Consolidation Act No.1144 of 13 December 2021 and subsequent amendments
Estonia	Working Conditions of Employees Posted to Estonia Act, passed on 17.03.2004
Finland	Act on Posting Workers (447/2016, amendments up to 62/2022 included)
Iceland	Act on Posted Workers and the Obligations of Foreign Service-Providers] 1) No. 45/2007
Latvia	Labour Code of 2001, chapter 3
Lithuania	Labour Code of 2016 art 108 and 109
Norway	Working Environment Act of 2005, section 1–7 and administrative regulation 16.12.2005 no. 1566



registers aid labour inspectorates in targeting their inspections. The level of public access to these registers varies, with most countries allowing public access but some information remaining undisclosed.

The countries differ in their implementation of elements for assessing whether a worker is posted and the establishment of the sending company in another country. The timing and type of information required for notification also vary, with many countries following the list of simple declarations in article 9.1 (a) of the directive. Some countries require additional information, including details about the assignor and document copies related to work permits, working conditions, service contracts, etc.

All countries, except Denmark, require posted undertakings to have certain documents available in the host country, and translations may be required. These documents can include employment contracts, working-time schedules, payslips, proof of wage payment, A1 certificates, and service contracts.

There is also variation in requirements for appointing a representative or contact person in the host country, with differing levels of competence required. In some countries, the representative can receive notifications of official decisions or summons.

Additionally, most countries have incorporated regulations concerning cross-border information sharing and cooperation among labour inspectorates, and fee collection into their national legislation.

Overall, the implementation of the Enforcement Directive exhibits considerable diversity among the Baltic and Nordic countries, reflecting the nuanced approaches taken by each nation in complying with the directive's provisions.

Literature

De Wispelaere F., De Smedt L. & Pacolet, J. (2022), Posted workers in the European Union. Facts and figures. Leuven: POSTING.STAT project VS/2020/0499



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