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Main abbreviations

| | |
|---------------|--|
| AA.CC. | Autonomous Community |
| AEAT | State Tax Administration Office |
| BR | Basic Regulation (Regulation EC/883/2004) |
| CJEU | Court of Justice of the European Union |
| EC | European Commission |
| EEA | European Economic Area |
| EESSI | Electronic Exchange of Social Security Information |
| EFTA | European Free Trade Association: Iceland (IS), Liechtenstein (LI), Norway (NO) |
| ELA | European Labour Authority |
| EPA | Labour Force Survey |
| EU | European Union |
| IMI | Internal Market Information System |
| INE | National Institute of Statistics |
| ITSS | Labour and Social Security Inspection |
| LISOS | Royal Legislative Decree 5/2000 |
| MTES | Ministry of Labour and Social Economy |
| NACE | National Classification of Economic Activities |
| OEITSS | State Labour and Social Security Inspection Agency |
| PD A1 | Portable Document A1 |
| PWD | Posting of Workers Directive |
| REA | Register of Accredited Companies |
| SEPE | Public Employment Service |
| TCN | Third-Country Nationals |
| TEA | Temporary Employment Agency |
| TGSS | General Social Security Treasury |

Executive summary

This report describes the scope and characteristics of the posting of workers from and to Spain in recent years, with particular focus on 2023, based on data obtained from Portable Documents A1 (PDs A1), prior notifications made to the labour authorities of the 17 Spanish Autonomous Communities, records provided by the Register of Accredited Companies (REA) to work in the construction sector and statistics on administrative infringements and sanctions related to postings. The posting of workers from and to Spain has grown gradually over the last 10 years. This trend was only disrupted in 2020, when there was a decline in the number of postings due to the health crisis caused by the COVID-19 pandemic.

From the perspective of Spain as the country of origin of the posting, we highlight the following issues:

Firstly, as we have just indicated, there has been a persistent trend of **growth** in the posting of workers from Spain over the **last ten years** (2015 to 2024). In 2023, the level of certificate issuance exceeded that of 2019, and this upward trend continued into 2024. This increase is more pronounced in PDs A1 under Article 12 of the Basic Regulation EC/883/2004 (BR) and somewhat more moderate regarding the issuance of PDs A1 under Article 13 of the BR. **In 2024**, the last year for which we have global data, the TGSS issued 309,068 PDs A1 of all types, i.e. almost 57,000 PDs A1 more than the previous year (representing an annual growth of 15%). The **predominance of PDs A1 Art. 12 over those under Art. 13 is clear**, with a difference of 37 percentage points (68% are under Art. 12, 31% are PDs A1 under Art. 13 and a residual 1% are other types of PDs A1). However, the **impact of this posting on the Spanish labour market** remains very relative. Considering that the number of people registered with social security in Spain (both employed and self-employed) rose in 2023 to 20,733,042, only 1.3 PDs A1 (of all types) were issued per 100 workers. Indeed, considering that 173,687 workers had an A1 PD in 2023, we can also state that only 0.8% of workers registered with the Spanish Social Security system had an A1 PD that year.

Focusing on the PDs A1 issued in 2023, the report analyses the main characteristics of the workers and companies associated with the different types of PDs A1. Firstly, we would like to highlight the **novel identification of the number of workers** associated with the issuance of these PDs A1. After analysing the available data, it is possible to make a fairly accurate estimate of the number of applicants. During 2023, approximately 93,100 people were posted from Spain with a **PD A1 Art. 12**, of whom some 88,200 were employees who received, on average, 1.86 PD A1 per person. In the same year, approximately 77,300 workers received **PD A1 Art. 13**, of whom some 72,300, again the vast majority, were employees. Finally, it is estimated that agreements were signed, issuing PD A1 Art. 16 in favour of some 985 workers.

Based on the identification of the individuals involved, it has been possible to estimate the **number of PDs A1 received by each worker**. In the case of **PDs A1 Art. 12**, in 90% of cases, three or fewer PDs A1 were received per worker in 2023. In the case of **PDs A1 Art. 13.1**, in 97% of cases, workers received one or two PDs A1. In the case of **PD A1 Art. 13.2, 13.3 and 16**, more than 95% of individuals received a single PD A1. Going into detail, in the case of **Art. 12.1**, 66% of people received a single PD A1 (approximately 58,000 people), 17% received two PDs A1, 16% received between three and ten PDs A1, and only 1% of people, less than 1,000, received more than ten PDs A1. Finally, in the case of **Art. 13.1**, 90% of people received a single PD A1 (approximately 65,000 people), 7% received two PDs A1, and only 3% received three or more PDs A1 (approximately 2,250 people). Based on this data, it can be concluded that, **on average**, out of every six posted workers, four are posted only once during the year, another two or three times, and only one in six more than four times, i.e. only one in six can be considered a recurrently posted worker.

We also analysed the **States involved** in issuing these PDs A1, noting that Spain's main destination countries were France, Germany and Portugal. France, which remains the Member State to which Spain sends the most posted workers, was the destination for 44,238 PDs A1 Art. 12 in 2023. Regarding the **PDs A1 Art. 13** issued in 2023 to work in Spain simultaneous or successive with work in another Member State, two-thirds were received to work in France and just over 13% to work in Portugal, with the other two notable countries being Germany (almost 6%) and Italy (4.6%). Although most of the PDs A1 Art. 13 issued are

requested for work (simultaneous or successive) in many States, the most requested State is France (85% of PD A1), followed by Germany, Portugal, Italy, Belgium and the Netherlands (all with similar percentages of between 50 and 60% of PD A1). Considering where mobility is headed, it seems logical that of the 1,060 **PDs A1 Art. 16** issued, the first Member State with which Spain signs agreements is France (236, equivalent to 22.2%), followed closely by Portugal, with which 20.5% of agreements were signed, and Germany with 15.5%. From there, the percentages decrease, as 68 agreements were signed with Belgium and Italy respectively (6.4% of the total).

As for the **duration of PDs A1**, it can be said that during 2023, the postings referred to in **Article 12** were relatively short, with an **average duration** of 36.5 days (just over 5 weeks). This duration is multiplied by 2.2 in the case of self-employed workers, although, as already noted, this type of posting is in the minority and outside the scope of the posting directives. Obviously, the **average cumulative duration** of PDs A1 Art. 12 **per applicant worker** is higher, approaching 72 days. In other words, although only one in three workers apply for more than one PD A1, this means that, on average, the total duration of time a worker spends posted throughout the year is doubled. In relation to **PDs A1 Art. 13**, the **average duration** was almost 200 days, and the **average cumulative duration** of postings was around 230 days. The most common case is that of workers who normally carry out an activity as an employee in two or more Member States, i.e. workers subject to Art. 13.1. The average duration of these PDs A1 was just over half a year (193.6 days). This duration is 50% higher in the case of PDs A1 Art. 13.2, i.e. workers who normally pursue an activity as self-employed persons in two or more Member States, who receive certificates with an average duration of 281.1 days. Finally, **PDs A1 Art. 16** had an average duration of 450.3 days.

As for the **nationality of posted workers** from Spain in 2023, 78.3% of **PDs A1 Art. 12** applications were submitted by Spanish workers, 11.4% by nationals of other EEA Member States or Switzerland, and 10.3% by third country nationals (TCNs), including 0.5% of British workers. The proportion is different in **PDs A1 Art. 13**, as Spaniards account for less than 60%, with a very significant percentage of EEA and Swiss citizens (more than 25%) and 15.4% of TCNs. **PDs A1 Art. 16** agreements, on the other hand, are signed in a very high percentage in favour of Spanish citizens (87.4%). Regarding TCNs, it should be noted that the percentage of PDs A1 of all types in favour of this group is similar to their presence in the Spanish labour market. Analysing by nationality, in **absolute numbers**, Moroccan citizens stand out, but in **relative numbers**, the percentage of citizens posted from Senegal, Ecuador and Mali are relevant, as these figures are clearly higher than the percentage of affiliations in Spain of citizens of these three nationalities. However, the most notable aspect is the percentage of PDs A1 issued in favour of **EEA and Swiss nationals**, as these workers represent only 4.15% of those registered in Spain, but 16.25% of all types of PDs A1 are issued in their favour. On average, 5 PDs A1 are issued for every 100 EEA and Swiss workers registered in Spain (almost four times the average). In absolute numbers, Romanian citizens stand out, with 16,431 PDs A1, but if we consider the percentage of affiliation, Portuguese and Bulgarian citizens stand out, with 9.5 and 8.2 PDs A1 issued for every 100 workers of these nationalities affiliated in Spain, respectively.

About the **age and sex** of posted workers, it can be said that the average age of posted workers is 45.2 years for men and 41.2 years for women. The average is slightly lower among PDs A1 Art.12 than among PDs A1 Art.13. There is also a clear disproportion between men and women, as just over 85% of PDs A1 are issued in favour of men, meaning that on average men are posted five times more than women. The section of workers in which the most postings occur is that of men between 45 and 54 years of age, who account for almost one in three postings. It can therefore be concluded that the typical posted worker from Spain would be a 45-year-old man.

From the perspective of **companies employing posted workers**, the volume of PDs A1 is analysed according to company size, considering the **number of employees**. In absolute terms, the distribution is relatively uniform, as PDs A1 are divided into three very similar parts between large, medium-sized and small companies. On average, the larger the size of the companies, the more workers they post. However, if we look at the percentage of posting per number of employees, the companies that post the most are

medium-sized companies, with 3.2 PDs A1 per 100 workers, while large companies request slightly less than half of the PDs A1 per worker (1.4 per 100 workers).

Regarding the **economic sectors** affected by posting, in the case of **PDs A1 Art. 12**, manufacturing (32.6%), construction (20.1%) and professional activities (12.6%) predominate. In the case of **PDs A1 Art. 13**, however, posting is concentrated in the services sector, mainly in the road transport subsector (61% of PDs A1 Art. 13). The industrial sector accounts for only 12.4% of the PD A1 Art. 13 issued, divided almost equally between manufacturing and construction.

When looking more closely at the sectoral analysis, the first thing that stands out is that the posting of workers from companies in the **agricultural sector** is very low. However, most of the posting in this sector is carried out through **temporary employment agencies** (TEA) that are classified within the service sector. If we consider the number of PDs A1 issued in favour of TEA workers affiliated to the Special Agricultural Social Security System, the number of posted workers is clearly higher. Therefore, when TEA workers are also considered, it appears that 6.5% of all PDs A1 Art. 12 and 10.6% of PDs A1 Art. 13 are issued to agricultural workers. In 2023, 10,211 PDs A1 Art. 12 and 8,380 PDs A1 Art. 13 were requested for agricultural workers, with an average duration of between two months and two and a half months (54.6 days in PD A1 Art. 12.1 and 77.6 days in those under Art. 13.1), mainly in favour of employees. The companies that use these Spanish TEAs are located almost entirely in France, and most posted workers are TCNs, largely from Africa. Alongside them, 26.1% of Spanish workers and less than 1% of workers from the EEA or Switzerland are posted. In any case, the number of posted workers is very small compared to the size of the Spanish agricultural sector, which employs more than 700,000 people, and even smaller compared to the French agricultural sector, which recruits workers from numerous other EU countries to meet its labour demand.

The report shows that some authorisations for TCNs have been denied to TEA companies. In fact, since the new Immigration Regulation, Royal Decree 1155/2024, went into effect on 20 May 2025, it expressly prohibits TEAs from applying for administrative authorisations for foreigners to carry out seasonal activities (Title V) and the collective management of recruitment at source (Title VI). This prohibition on TEAs obtaining seasonal worker permits associated with Directive 2014/36/EU has been challenged by companies and is *sub iudice*.

In the **construction** sector, on the other hand, the 40,000 PDs A1 issued in 2023 were primarily for Spanish nationals (76.6%), although proportionally more EEA and Swiss citizens were posted. If we consider the nationality of the almost 1.4 million workers in the sector registered in Spain, 2.7 PDs A1 were requested for each Spanish worker. However, this figure is more than double for EEA and Swiss nationals, at 5.5. Eighty per cent of the PDs A1 issued in 2023 were associated with Article 12 and were issued to just over 24,000 workers. On average each worker received 1.65 PDs A1, most applicants (74%) received a single PD A1 and less than 8% of applicants received more than 3 PDs A1. This suggests that one-off postings predominate in the construction sector. The main destination countries were Portugal, France, and, to a lesser extent, Germany. Additionally, posting to Gibraltar is noteworthy given the small size of the market. The average duration of PD A1 Art. 12 was two months (60.2 days), while those under Art. 13 had an average duration of more than five months (163.8 days).

Finally, in 2023, just under 52,000 PDs A1 were issued in the **road freight transport** sector, with most of these certificates associated with Article 13.1 (91%) and linked to some 49,000 transport operators (1.05 PDs A1 per applicant). Almost 8 PDs A1 were issued for every 100 workers in the sector registered in Spain. This is a posting level six times higher than the Spanish average (1.3 PDs A1 per 100 workers). The companies requested PD A1 for a large number of countries, including, in many cases, the entire EEA, Switzerland and the United Kingdom. In the case of PDs A1 under Article 13.1, the average duration was more than 8 months (251.8 days). Although most PDs A1 were issued to Spanish citizens (51.5%, 26,600), a significant number were issued to Romanian citizens (11,658). Consequently, in 2023, one in four posted drivers were Romanian. Only 11.3% of transport workers were TCNs, with Moroccan citizens (2,235)

standing out. Therefore, posting in the sector is particularly relevant and is associated with mainly EU employed workers who usually work in several Member States for much of the year.

From the perspective of Spain as the receiving country, we highlight the following issues:

The analysis is based on a key finding: until January 2025, Spain did not have a unified notification channel or an operational central register, despite this being provided for in Law 45/1999 since 2017. The launch of the Law 45 Portal is a significant milestone, as it brings together the electronic registration of notifications by companies in a single application, although comprehensive regulatory development and a reasonable timeframe for systematic access to aggregated data are still pending. In practice, by 2023, empirical knowledge of the phenomenon will continue to depend on the capacity to **exploit data in each AA.CC. and on *ad hoc* requests**, which will affect the comparability, completeness and quality of the data.

In addition, the Spanish system has **two** structural "**blind spots**" with direct effects on measurement and control: (1) the exemption from notification for postings of less than 8 days (except for TEAs), and (2) the exclusion of road transport, which is channelled through IMI and not through regional notification. Both elements make it difficult to ascertain the actual number of postings, skew the composition by sector (especially transport) and tend to underestimate very short-term postings, which are common in certain transnational service provision profiles.

Despite these limitations, the results of our analysis confirm that Spain is a well-established receiving country for postings of workers within the internal market. The analysis of PDs A1 Art. 12 shows that in 2023 Spain ranked **seventh among the receiving EU/EFTA States** and reached an all-time high: in that year, nearly 190,000 PDs A1 Art. 12 were issued to send workers to Spain (including self-employed workers, who accounted for approximately 6% of the total). Spain thus appears in an upper-middle group, with figures comparable to the Netherlands and Italy, although far from the main centres for the posting of workers (Germany, France, Austria and Belgium). This growth has been particularly intense since 2020 (an increase of nearly 130% in the volume of PDs A1 issued for Spain), confirming a structural change in Spain's relative position within transnational benefit flows.

An additional relevant finding is the change in the net balance: in 2023, according to PDs A1 (Art. 12), Spain received more postings than it sent (approximately 189,887 compared to 172,006), altering the trend of the 2011–2022 period in which, with the exception of 2019 and 2020, the 'sending' dimension predominated. Without turning this evidence into a definitive conclusion, the data suggests that, in recent years, **Spain has come to play a more balanced role between the sending and receiving perspectives**, with a growing intensity as a receiving country.

The exploitation of the notifications received by the AA.CC. allows us to describe the phenomenon from a receiving perspective (and not only from the point of view of social security coordination), although with a significant gap compared to PDs A1. In 2023, 18,497 notification files were identified, submitted by 3,385 companies established in the EU/EFTA, with a total of **48,511 notified posted workers (employees)** notified, which could be equivalent to an approximate volume of **100,000 postings** if we assume (as in other States) that a substantial proportion of workers are mobilised several times a year. The average number of notifications per company (5.5) points precisely to an annual repetition of temporary services and the existence of recurring transnational services, consistent with a pattern of 'project mobility' and activity by campaigns or technical interventions.

However, the discrepancy between sources is striking when we compare the 182,127 PDs A1 Art. 12 issued for Spain in 2023 with the 48,511 posted workers who were notified through the prior notification tools available at the AA.CC. This difference can be explained by a combination of factors: historical shortcomings in the processing and uniform export of data from the AA.CC., differences in the legal basis and purpose (PDs A1 as a social security document, notification as a labour instrument), legal exemptions (postings of less than 8 days), the IMI channel for road transport and, possibly, non-compliance with the notification obligation by some companies. Consequently, any reading of the volume of postings to Spain must be presented as an approximation and as evidence that the phenomenon is probably limited data

source, even though it provides essential details on sectors, territories and types. In other words, the register based on regional notifications serves as a useful "window" for observing the phenomenon, but it does not allow us to see all cases, so the actual characteristics of postings are likely to be somewhat different from what can be observed with this data.

In terms of the country of origin of postings to Spain in 2023, these are concentrated in a few Member States: Portugal (55%), Germany (15%) and Italy (12%) account for approximately four-fifths of the total, followed at a distance by France, Romania and Poland (none above 5%). This pattern is consistent with previous trends and combines geographical proximity (Portugal), productive integration in industrial and technical sectors (Germany/Italy) and transnational business networks. A significant limitation remains: the nationality of the worker posted is not known in a representative way, as only a very small number of autonomous communities reported this variable. Even so, the available data suggest that, in many cases, the country of establishment of the company coincides with the country of origin of the worker, and there are also contingents of TCNs, particularly linked to certain circuits and sectors (e.g., TEAs and agriculture).

From a territorial perspective, **the distribution by AA.CC. of destination** shows a notable concentration: País Vasco (17%), Galicia (14%), Castilla y León (13%), Cataluña (10%) and Madrid (10%) account for around 65% of reported postings, with a second group (Comunidad Valenciana, Andalucía, Aragón and Castilla-La Mancha) accounting for another 22%. This territorial map does not follow a single pattern, but rather combinations of proximity, sectoral demand and project location. The jump compared to 2019 is equally significant: the number of companies, files and posted workers multiplied (around 2–3 times), explained both by the incorporation of AA.CC. previously absent from the historical sample and by a real increase in the phenomenon and a possible increase in compliance when it comes to reporting.

In terms of **sectors of activity**, the posting to Spain in 2023 is concentrated in construction (47%) and industry (24%), with services also playing a significant role (22%) and agriculture having a limited presence (6%). Analysis by AA.CC. reveals specialisations: services predominate in Cataluña, Islas Baleares and Islas Canarias; agriculture acquires a high weight in Aragon (with postings associated with specific companies and flows from Romania). A methodological clarification on this point: there is recurring confusion as we observe that certain tasks (installation/maintenance of machinery/metallurgy) are labelled heterogeneously as industry, construction or services. The existence of the unified portal since 2025 should improve this classification by requiring more structured information.

With regard to the **types of posting**, and with the caution derived from the lack of uniform data reporting, the available notifications suggest that postings occur mainly in the context of subcontracting (92–95%), with a small proportion of intra-group postings (3–5%) and a low presence of TEA (2–3%). Specific data on TEAs, although partial, suggest that posting through this channel is limited and concentrated in certain sectors: technical and engineering profiles from Germany/Italy (industry/automotive) and contingents of agricultural labourers (some notifications with TCNs) in certain territories. This interpretation is reinforced by complementary evidence from PDs A1, which places Germany as one of the countries with the highest number of workers sent to Spain via TEAs.

The duration of the reported postings confirms a pattern of temporary mobility of medium and low duration. In 2023, 66% of postings lasted between 1 and 6 months, with a predominance of 1-3 months (39%) and a significant proportion of less than one month (19%). Long-term postings are in the minority: those lasting more than 12 months account for around 6%. Different profiles are detected by sector: services and industry show very short postings (in many cases less than 15 effective days), while in construction the average duration is closer to 3–4 months, with territorial particularities (e.g. Galicia and Extremadura, with a greater presence of prolonged postings linked to Portuguese flows). Overall, the estimated average duration is consistent with European evidence based on PDs A1 for 2023 (110 days) and fits with a structural feature of the phenomenon: the repetition of postings within the same year by workers and companies.

Finally, we also explore the **Register of Accredited Companies (REA)**, a mandatory administrative register managed by the regional labour authorities for contractors and subcontractors operating in the construction sector. Registration in the REA is a formal prerequisite for participation in this sector and

therefore provides a valuable empirical proxy for identifying companies with the capacity to engage in the posting of workers to Spain. As of December 2024, 1,503 foreign companies were registered, with a clear concentration from Portugal (50%), followed by Italy (13%), Germany (9%) and Poland (5%). The territorial distribution reveals a significant geographical concentration, particularly in Galicia (29%), Castilla-La Mancha (16%) and Castilla y León (9%). More than half of the Portuguese companies were registered in Galicia, reflecting strong proximity-based dynamics and cross-border service provision. Sectoral data further indicate that 69% of foreign companies operate in specialised construction activities (rising to approximately 74% when general construction is included), confirming their insertion in segments where subcontracting is most prevalent and where the risks associated with the posting of workers tend to intensify. Although registration in the REA does not in itself guarantee actual economic activity or substantive compliance with labour obligations, the data nonetheless demonstrate a substantial and structurally concentrated foreign presence within Spanish construction subcontracting chains

Regarding the control of postings in Spain:

The report highlights the role of the State Labour and Social Security Inspectorate (OEITSS), which is responsible for monitoring compliance with labour regulations, including occupational risk prevention, but also for ensuring that social security contributions are paid correctly and that TCNs have the right to work in Spain. **The number of inspectors** and, above all, sub-inspectors has increased in recent years. Within the framework of the OEITSS, the Special Coordination Unit for Combating Fraud in Transnational Work, also known as "EU Mobility", created in 2020, is particularly noteworthy. This unit coordinates the OEITSS with all the Spanish administrations involved in the posting of workers, from the point of view of labour, social security, migration and even taxation, promoting the signing of collaboration agreements with regional and national public bodies involved in this phenomenon (TGSS, INSS, SEPE, Ministry of Transport, AEAT). The Unit also acts as the liaison office with the European Labour Authority (ELA), dealing with the exchange of information and administrative cooperation with other Member States through the IMI system. The staff assigned to it are labour inspectors who are experts in transnational fraud and who participate in and coordinate the ITSS's own interventions in this area, including joint or concerted inspections with other countries. Through actions funded by the ELA, for example, to generate capacity building, EU Mobility has organised workshops and training sessions bringing together other national social security inspectorates and institutions with which Spain has a special relationship (Portugal, France and Italy, among other States). One of the main objectives of these actions has been to create a useful database for monitoring incoming postings based on information on PDs A1 received by the Spanish social security system through EESSI. The aim is to continue along the same lines and create a tool similar to that already used by the French inspectorate, which followed in the footsteps of Belgium. The unit continues to fight against fraud by letterbox companies established in Spain or other Member States and to improve the protection of workers on posting, especially in the event of serious accidents, by highlighting the value of foreign inspection reports, even before the Spanish courts.

In Spain, there are no *ad hoc* offences associated with posting, but certain **administrative infringements and sanctions** (mainly fines) apply specifically to posting. For its part, the EU Mobility Unit provided us with the available information for the years 2023, 2024 and 2025. The report contains **data on infringements in relation to posting**, sanctions imposed, social security settlements obtained, and distribution by economic sector. Between 2023 and 2025, Spain's labour inspectorate detected 1,965 infringements linked to intra-EU worker mobility. Enforcement peaked in 2024: infringements rose from 409 (2023) to 829 (2024), then eased to 727 (2025). Average fines increased from €4,330 (2023) to €7,800 (2024) before falling to €5,750 (2025).

Information on infringements and penalties is organised into six categories: health and safety, labour relations, control of posting declarations, employment and foreigners, social security and other actions. Around 50 health and safety infringements occurred per year, with an average penalty of roughly €5,000 per case. Labour relations infringements became much more prevalent in 2024, with average penalties increasing

from €4,600 between 2023 and 2024 to €5,200 in 2025. Compliance with posting declaration controls improved, with infringements falling from 80 in 2023 to 44 in 2025.

The highest penalties were concentrated in the employment of TCNs and in social security. TCN-related infringements increased sharply in 2024, reaching 324 cases. These were reportedly often related to postings from Portugal, resulting in average fines of around €10,000 and a total of almost €4 million. Social security affiliation infringements were also significant, with around 200 cases in 2024 and 240 cases in 2025, generating approximately €1 million in fines and nearly €2 million in unpaid contributions per year. Other offences were negligible, with a limited number of cases regarding obstructing inspections resulting in minor penalties.

By sector, construction accounted for around one-third of infringements, followed by transport (20%), accommodation (10%), manufacturing (7%), and agriculture (4%). Compared with the distribution of posted workers received, infringements in construction and agriculture appear slightly lower than expected, and there is no particular indication of a problem with TEAs. By contrast, infringements are higher than expected in passenger air transport (14%) and tourist accommodation (10%).

Resumen ejecutivo

Este informe describe el alcance y las características del desplazamiento de trabajadores desde y hacia España en los últimos años, con especial incidencia en el año 2023, basándose principalmente en datos de los PD A1 emitidos, las notificaciones previas realizadas a las autoridades laborales de las 17 CC.AA. españolas, las inscripciones en el Registro de Empresas Acreditadas (REA) para trabajar en el sector de la construcción y las estadísticas de infracciones y sanciones administrativas relacionadas con los desplazamientos. El desplazamiento de trabajadores desde y hacia España ha experimentado un crecimiento progresivo en los últimos 10 años. Esta tendencia solo se vio alterada en 2020, cuando se produjo un descenso en el número de desplazamientos debido a la crisis sanitaria provocada por la pandemia de COVID-19.

Desde la perspectiva de España como Estado de origen del desplazamiento, destacamos las siguientes cuestiones:

En primer lugar, como acabamos de indicar, se observa una tendencia persistente de **crecimiento** del desplazamiento de trabajadores desde España en los **últimos diez años** (2015 a 2024). En el año 2023 no solo se recuperó el **nivel de emisión de certificados de 2019**, sino que llegó a superarse, continuando esta tendencia creciente en el año 2024. Este incremento es más marcado en los PD A1 del artículo 12 del Reglamento de coordinación de base (CE/883/2004) y algo más moderado respecto de la emisión de los PD A1 del artículo 13 de dicho Reglamento. **En 2024**, último año del que contamos con datos globales, la TGSS expidió 309.068 PD A1 de todo tipo, es decir, casi 57.000 PD A1 más que el año anterior (lo que supone un crecimiento anual del 15%). El **predominio de los PD A1 del art. 12 sobre los del art. 13 es claro**, separándoles ya 37 puntos porcentuales (el 68% son del art.12, el 31% son PD A1 del art. 13 y un residual 1% son otro tipo de PD A1). El **impacto del desplazamiento en el mercado de trabajo español**, sin embargo, sigue siendo muy relativo, ya que si consideramos que el número de afiliados a la seguridad social en España (por cuenta ajena y propia) ascendió a 20.733.042 personas, en el año 2023 solo se emitieron 1,3 PD A1 (de todo tipo) por cada 100 trabajadores. De hecho, teniendo en cuenta que 173 687 trabajadores tenían un PD A1 en 2023, también podemos afirmar que solo el 0,8 % de los trabajadores registrados en la Seguridad Social española tenían un PD A1 ese año.

Centrándonos en los PD A1 emitidos en el año 2023, el informe analiza las principales características de los trabajadores y empresas asociados a sus distintos tipos. En primer lugar, queremos destacar la **novedosa identificación del número de personas trabajadoras** asociadas a la emisión de estos PD A1. Tras analizar los datos disponibles, es posible hacer una estimación bastante precisa del número de trabajadores involucrados. Durante el año 2023 se desplazaron desde España aproximadamente 93.100 personas con **PD A1 art. 12**, de las que unas 88.200 eran trabajadores por cuenta ajena que recibieron, de media, 1,86 PD A1 por persona. En el mismo año, aproximadamente 77.300 trabajadores recibieron **PD A1 art. 13**, de los cuales unos 72.300, de nuevo la gran mayoría, eran trabajadores por cuenta ajena. Finalmente, se estima que se suscribieron acuerdos, emitiéndose PD A1 del art. 16 a favor de unos 985 trabajadores.

A partir de la identificación de las personas involucradas, se ha podido estimar el **número de PD A1 emitidos por trabajador**. En 2023, en el caso de los **PD A1 art. 12**, en un 90% de los casos se solicitaron tres o menos PD A1 por trabajador. En el caso de los **PD A1 art. 13.1**, en un 97% de los casos los trabajadores recibieron uno o dos PD A1. En el caso de los **PD A1 art. 13.2, 13.3 y 16**, más de un 95% de los trabajadores recibieron un solo PD A1. Entrando en detalle, en el caso del **art. 12.1**, un 66% de las personas recibieron un solo PD A1 (aproximadamente 58.000 personas), un 17% recibieron dos PD A1, un 16% recibieron entre tres y diez PD A1 y únicamente un 1% de las personas, menos de 1.000, solicitaron más de diez PD A1. Finalmente, en el caso del **art. 13.1**, un 90% de las personas recibieron un solo PD A1 (aproximadamente 65.000 personas), un 7% recibieron dos PD A1 y tan solo un 3% recibieron tres o más PD A1 (aproximadamente 2.250 personas). A partir de estos datos se puede concluir que, **en promedio**, de cada seis trabajadores desplazados, cuatro se desplazan una sola vez a lo largo del año, otro se desplaza dos o tres veces y solo uno de cada seis se desplaza más de cuatro veces, es decir, solo uno de cada seis se puede considerar que es un trabajador desplazado de forma recurrente.

También analizamos los **Estados involucrados** en la expedición de estos PD A1. Comenzando con los **PD A1 art. 12**, en 2023 los principales países de destino o receptores de trabajadores desplazados desde España fueron Francia, Alemania y Portugal. Estos tres Estados, dos de ellos limítrofes, representan un 61% de todos los desplazamientos comunicados. Francia sigue siendo el Estado miembro al que España envía más trabajadores desplazados, y fue en 2023 el destino de 44.238 PD A1 art. 12. Respecto de los **PD A1 art. 13** emitidos en 2023, dos tercios se solicitaron para trabajar en Francia y algo más del 13% para trabajar en Portugal, siendo los otros dos países destacados Alemania (casi el 6%) e Italia (4,6%). Aunque en la mayoría de los PD A1 art. 13 emitidos se solicita para el trabajo (simultáneo o sucesivo) en muchos Estados, el Estado más solicitado es Francia (en un 85% de los PD A1) seguido por Alemania, Portugal, Italia, Bélgica y Países Bajos (todos ellos en porcentajes similares de entre el 50 y el 60% de los PD A1). Considerando a donde se dirige la movilidad, parece lógico que de los 1.060 **PD A1 art. 16** expedidos, el primer Estado miembro con los que firma acuerdos España sea Francia (236, lo que equivale a un 22,2 %), seguido a poca distancia de Portugal, con quien se firmaron un 20,5% de los acuerdos, y Alemania con un 15,5%. A partir de ahí los porcentajes decrecen, ya que con Bélgica e Italia se firmaron 68 acuerdos con cada uno (el 6,4% del total).

En cuanto a la **duración de los PD A1**, se puede afirmar que durante el año 2023 los desplazamientos del **art. 12** fueron relativamente cortos, con una **duración media** de 36,5 días (algo más de 5 semanas). Esa duración se multiplica por 2,2 en el caso de los trabajadores por cuenta propia, aunque, como ya se ha señalado, este tipo de desplazamiento es minoritario y ajeno a las directivas de desplazamiento. Obviamente, la **duración media acumulada** de los PD A1 art. 12 **por persona trabajadora** solicitante es mayor, alcanzando aproximadamente 72 días. Es decir, aunque solo uno de cada tres trabajadores solicite más de un PD A1, esto supone que, de media, se doble la duración total del tiempo que un trabajador pasa desplazado a lo largo del año. En relación con los **PD A1 art. 13** la **duración media** fue de casi 200 días, y la **duración media acumulada** de los desplazamientos fue de unos 230 días. El caso más común es el de trabajadores que ejercen normalmente una actividad por cuenta ajena en dos o más Estados miembros, es decir, trabajadores sujetos al art. 13.1. La duración media de estos PD A1 art. 13.1 fue algo más de medio año (193,6 días). Esta duración es un 50% superior en el caso de los PD A1 art. 13.2, esto es trabajadores que ejercen normalmente una actividad por cuenta propia en dos o más Estados miembros, que solicitan certificados con una duración media de 281,1 días. Finalmente, los **PD A1 art. 16** tuvieron una duración media de 450,3 días.

En cuanto a la **nacionalidad de los trabajadores desplazados** desde España en 2023, el 78,3% de los **PD A1 art. 12** fueron solicitados por trabajadores españoles, el 11,4% por nacionales de otros Estados miembros del EEE o Suiza y el 10,3 % por nacionales de terceros estados (NTE), incluyendo en este porcentaje un 0,5% de trabajadores de nacionalidad británica. La proporción es diferente en los **PD A1 art. 13**, pues los españoles no llegan al 60%, siendo muy significativo el porcentaje de ciudadanos del EEE y Suiza (más del 25%), y creciendo el porcentaje de NTE hasta un 15,4%. Los acuerdos **PD A1 art. 16**, por su parte, se suscriben en un porcentaje elevadísimo a favor de ciudadanos españoles (87,4%).

Respecto de los **NTE** debe subrayarse que el porcentaje de PD A1 de todo tipo a favor de este colectivo (12%) es similar a su presencia en el mercado de trabajo español, esto es, al porcentaje de afiliación a la seguridad social de NTE en España. Analizando por nacionalidad, en **números absolutos** destacan los ciudadanos marroquíes, pero en **números relativos** destaca el porcentaje de desplazamiento de ciudadanos de Senegal, Ecuador y Mali, cifras claramente superiores al porcentaje de afiliación en España de NTE de ciudadanos de estas nacionalidades. Sin embargo, lo más destacable es el porcentaje de PD A1 emitidos en favor de **nacionales del EEE y Suiza**, pues estos trabajadores representan tan solo un 4,15% de los afiliados en España, pero a su favor se expide el 16,25% de los PD A1 de todo tipo. De media se emiten 5 PD A1 por cada 100 trabajadores de la EEE y Suiza afiliados en España (casi cuatro veces la media). En números absolutos destacan los ciudadanos rumanos, con 16.431 PD A1, pero si tenemos en cuenta el porcentaje de afiliación, destacan los ciudadanos portugueses y búlgaros, con 9,5 y 8,2 PD A1 emitidos por cada 100 trabajadores de estas nacionalidades afiliados en España respectivamente.

Respecto de la **edad y sexo** de los trabajadores desplazados, se puede afirmar que la edad media de los desplazados es de 45,2 años entre los hombres y de 41,2 años entre las mujeres. La media es ligeramente más baja entre los PD A1 art.12 que entre los PD A1 art.13. Resulta evidente, además, la desproporción entre hombres y mujeres, ya que algo más del 85% de los PD A1 se emiten a favor de varones, es decir que de media los hombres se desplazan cinco veces más que las mujeres. El tramo de trabajadores en el que se producen más desplazamientos es el de los hombres entre 45 y 54 años, que suponen casi uno de cada tres desplazados. Con todo ello se puede concluir que el trabajador desplazado tipo desde España sería un varón de 45 años.

Desde el punto de vista de las **empresas empleadoras de los desplazados**, se analiza el volumen de solicitudes de PD A1 en función de su tamaño considerando el **número de empleados**. En cifras absolutas, la distribución es relativamente uniforme, ya que los PD A1 se reparten en tres partes muy similares entre las grandes, las medianas y las pequeñas empresas. Dado que en **España el 97,5% son microempresas o pequeñas empresas**, el 2,1 son medianas empresas y solo el 0,4% son grandes empresas, de media cuanto mayor es el tamaño de las empresas más trabajadores desplazan. Si nos fijamos, sin embargo, en el porcentaje de desplazamiento por número de empleados, las empresas que más desplazan son las medianas empresas, con 3,2 PD A1 por cada 100 trabajadores, mientras que las grandes empresas solicitan algo menos de la mitad de los PD A1 por trabajador (1,4 por cada 100 trabajadores)

Respecto de los **sectores económicos** afectados por el desplazamiento, en el caso de los **PD A1 art. 12** predomina manufactura (32,6%), construcción (20,1%) y actividades profesionales (12,6%). En el caso de los **PD A1 art. 13**, sin embargo, el desplazamiento se centra en el sector servicios (87,2%), principalmente en el subsector del transporte por carretera que supone el 61% de todos los PD A1 art. 13. El sector industrial supone tan solo el 12,4% de los PD A1 art. 13 expedidos, repartidos a partes casi iguales entre manufactura y construcción.

Al profundizar en el análisis sectorial, lo primero que llama la atención es que el desplazamiento de trabajadores de empresas encuadradas en el **sector agrario** es muy reducido. Sin embargo, la mayoría del desplazamiento en este sector se realiza a través de **empresas de trabajo temporal (ETT)** que se encuentran encuadradas dentro del sector servicios. Si tenemos en cuenta el número de PD A1 expedidos a favor de trabajadores de ETT afiliados al Sistema Especial para Trabajadores Agrarios (90% de los PD A1 de ETT), la cifra de trabajadores desplazados es claramente mayor. De manera que considerando también a los trabajadores de las ETT resulta que el 6,5% del total de los PD A1 art. 12 y el 10,6% de los del art. 13 se expiden a favor de trabajadores agrarios. En 2023 se solicitaron 10.211 PD A1 art. 12 y 8.380 PD A1 art. 13 para trabajadores agrarios, con una duración media de entre dos meses y dos meses y medio (54,6 días en los PD A1 art. 12.1 y 77,6 en los del art. 13.1), fundamentalmente a favor de trabajadores por cuenta ajena. Las empresas usuarias de estas ETT españolas se encuentran prácticamente en su totalidad en Francia, y la mayoría de los 11.426 trabajadores de ETT desplazados son NTE (73,1%) en gran medida procedentes de África (sobre todo Senegal y Marruecos). Junto a ellos se desplaza a un 26,1% de trabajadores españoles y menos de un 1% de trabajadores nacionales del EEE o Suiza. En todo caso, este número de trabajadores desplazados es muy pequeño en comparación con el sector agrario español (más de 700 000 trabajadores) y aún más pequeño en relación con el tamaño del sector agrario francés, que contrata trabajadores de numerosos Estados miembros para hacer frente a su demanda de mano de obra.

El informe muestra que algunas autorizaciones para NTE han sido vedadas a las ETT. En efecto, desde la entrada en vigor el 20-5-2025, el nuevo Reglamento de extranjería, el Real Decreto 1155/2024, sin explicar tal decisión en su exposición de motivos, prohíbe expresamente a las ETT solicitar autorizaciones administrativas para que los extranjeros realicen actividades de temporada (Título V) así como la gestión colectiva de contrataciones en origen (Título VI). Esta prohibición de que las ETT puedan obtener los permisos de temporeros asociados a la Directiva 2014/36/UE ha sido impugnada por las empresas y está *sub iudice*.

En el sector de la **construcción**, por el contrario, los 40.000 PD A1 expedidos en 2023 afectaban mayoritariamente a trabajadores de nacionalidad española (76.6%), aunque en proporción al número de afiliados los ciudadanos comunitarios, del EEE y Suiza se desplazaron más. Si tenemos en cuenta la nacionalidad de los casi 1,4 millones de trabajadores del sector afiliados en España, se solicitaron 2,7 PD A1 por cada trabajador español, pero más del doble en el caso de los nacionales de la EEE y Suiza (5,5). El 80% de los PD A1 expedidos en 2023 estaban asociados al art. 12, y se expidieron a favor de poco más de 24.000 trabajadores. Aunque de media cada trabajador solicitó 1,65 PD A1, la mayoría de los solicitantes (74%) pidieron un único PD A1 y menos de un 8% de los solicitantes pidieron más de 3 PD A1, por lo que se puede inferir que en el sector de la construcción predominan los desplazamientos puntuales. Los Estados de destino principales fueron Portugal, Francia, y en menor medida Alemania. Destaca también, por el pequeño tamaño del mercado, el desplazamiento a Gibraltar. La duración media de los PD A1 art. 12 fue de dos meses (60,2 días), mientras que los del art. 13 tuvieron una duración media de más de cinco meses (163,8 días).

Finalmente, en 2023 se emitieron algo menos de 52.000 PD A1 en el sector del **transporte de mercancías por carretera**, certificados asociados mayoritariamente al artículo 13.1 (91%) y vinculados a unos 49.000 transportistas (1,05 PD A1 por solicitante). Se emitieron casi 8 PD A1 por cada 100 trabajadores del sector afiliados en España, un nivel de desplazamiento 6 veces superior a la media de desplazamientos en España (1,3). Los PD A1 se solicitaron, mayoritariamente, para un número elevado de países y, en muchas ocasiones, para el conjunto del EEE, Suiza y Reino Unido. En el caso de los PD A1 del art. 13.1 la duración media fue de más de 8 meses (251,8 días). Aunque la mayoría de los PD A1 se emitieron a favor de ciudadanos españoles (51,5%, 26.600) destaca la significativa presencia de ciudadanos rumanos (11.658) lo que supone que en 2023 uno de cada cuatro transportistas desplazados era rumano. Solo un 11,3% de los transportistas eran NTE, destacando los ciudadanos marroquíes (2.235). El desplazamiento en el sector, por tanto, es especialmente relevante, y está asociado a trabajadores por cuenta ajena que ejercieron su profesión habitualmente de forma simultánea en varios Estados Miembros durante gran parte del año.

Desde el punto de vista de España como Estado receptor de trabajadores desplazados, estas son las principales evidencias:

El análisis parte de una constatación clave: hasta enero de 2025 España no se disponía de un canal unificado de notificación ni de un registro central operativo, pese a estar previsto en la Ley 45/1999 desde 2017. La puesta en marcha del Ley 45 Portal constituye un hito relevante, al concentrar en una única aplicación el registro electrónico de notificaciones por parte de las empresas, si bien todavía se encuentra pendiente un desarrollo reglamentario completo y un horizonte temporal razonable para la accesibilidad sistemática de datos agregados. En la práctica, para el año 2023 el conocimiento empírico del fenómeno continúa dependiendo de la capacidad de **explotación de datos en cada CC.AA. y de solicitudes *ad hoc***, lo que condiciona la comparabilidad, exhaustividad y calidad de los datos.

Además, el sistema español presenta **dos “puntos ciegos”** estructurales con efectos directos sobre la medición y el control: (1) la exención de notificación para desplazamientos inferiores a 8 días (salvo ETT), y (2) la exclusión del transporte por carretera, cuyo desplazamiento se canaliza por IMI y no a través de notificación autonómica. Ambos elementos dificultan conocer el número real de desplazamientos, sesgan la composición por sectores (especialmente transporte) y tienden a infraestimar desplazamientos de muy corta duración, que son frecuentes en determinados perfiles de prestación transnacional.

Pese a estas limitaciones, los resultados de nuestro análisis acreditan que España es un destino consolidado de trabajadores desplazados dentro del mercado interior. El análisis de los PD A1 art. 12 muestra que España ocupó en 2023 **el séptimo lugar entre los Estados UE/AELC receptores** y se alcanzó un máximo histórico: en ese año se expidieron cerca de 190.000 PD A1 art. 12 para enviar trabajadores a España (incluyendo trabajadores autónomos que supusieron aproximadamente un 6% del total). España aparece así en un grupo intermedio-alto, con cifras comparables a Países Bajos e Italia, aunque lejos de los principales polos de recepción de trabajadores desplazados (Alemania, Francia, Austria y Bélgica). Este crecimiento ha

sido especialmente intenso desde 2020 (incremento cercano al 130% en el volumen de PD A1 con destino a España), lo que confirma un cambio estructural en la posición relativa española dentro de los flujos de prestación transnacional.

Un hallazgo adicional relevante es el cambio del saldo neto: en 2023, según los PD A1 (art. 12), España recibió más desplazamientos de los que envió (aproximadamente 189.887 frente a 172.006) alterando la tendencia del periodo 2015–2020 en el que, si exceptuamos el año 2019, predominaba la dimensión “emisora”. Sin convertir esta evidencia en una conclusión cerrada, el dato sugiere que, en los últimos años, **España ha pasado a desempeñar un papel más equilibrado entre envío y recepción**, con una creciente intensidad como país de destino.

La explotación de las notificaciones recibidas por las CC.AA., por su parte, permite describir el fenómeno desde la óptica laboral (y no solo de coordinación de Seguridad Social), aunque con una brecha significativa frente a los PD A1. En 2023 se identificaron 18.497 expedientes de notificación presentados por 3.385 empresas establecidas en UE/AELC, con un total de **48.511 trabajadores desplazados (asalariados)** notificados, que podrían equivaler a un volumen aproximado de **100.000 desplazamientos** si se asume (como en otros Estados) que una parte sustancial de los trabajadores es movilizada varias veces al año. La media de notificaciones por empresa (5,5) apunta precisamente a una reiteración anual de prestaciones temporales y a la existencia de servicios transnacionales recurrentes, consistentes con un patrón de “movilidad por proyectos” y de actividad por campañas o intervenciones técnicas.

La discrepancia entre fuentes es, sin embargo, llamativa: frente a los 182.127 PD A1 art. 12 con destino a España en 2023, solo se notificaron 48.511 personas a través del canal. Este diferencial se explica por una combinación de factores: carencias históricas en el tratamiento y exportación homogénea de datos de las CC.AA., diferencias de base jurídica y finalidad (PD A1 como documento de Seguridad Social, notificación como instrumento laboral), exenciones legales (desplazamientos inferiores a 8 días), canal IMI en transporte por carretera y, posiblemente, incumplimientos en la obligación de notificar por parte de algunas empresas. En consecuencia, cualquier lectura del volumen de desplazamientos con destino a España debe presentarse como una aproximación y como evidencia de que el fenómeno probablemente está encapsulado por la fuente laboral autonómica, aun cuando este aporte detalles imprescindibles sobre sectores, territorios y tipologías. Dicho de otro modo: el registro basado en las notificaciones autonómicas funciona como una “ventana” útil para observar el fenómeno, pero no permite ver todos los casos, de manera que las características reales de desplazamientos probablemente sean algo diferentes a lo que se puede observar con estos datos.

En relación con el país de origen de los desplazamientos con destino a España en 2023, estos se concentran en unos pocos Estados Miembros: Portugal (55%), Alemania (15%) e Italia (12%) explican aproximadamente cuatro quintas partes del total, seguidos a distancia por Francia, Rumanía y Polonia (ninguno por encima del 5%). Este patrón es consistente con tendencias previas y combina proximidad geográfica (Portugal), integración productiva en sectores industriales y técnicos (Alemania/Italia) y redes empresariales de prestación transnacional. Persiste una limitación relevante: la nacionalidad del trabajador desplazado no se conoce de forma representativa, dado que solo un número muy reducido de CC.AA. reportó esa variable. Aun así, los datos disponibles sugieren que, en bastantes casos, el Estado de establecimiento de la empresa coincide con el Estado de origen del trabajador, y aparecen también contingentes de NTE, particularmente vinculados a determinados circuitos y sectores (p. ej., ETT y agricultura).

Desde un enfoque territorial, **la distribución por CC.AA. de destino** muestra una concentración notable: País Vasco (17%), Galicia (14%), Castilla y León (13%), Cataluña (10%) y Madrid (10%) concentran alrededor del 65% de los desplazamientos notificados, con un segundo grupo (Comunidad Valenciana, Andalucía, Aragón y Castilla-La Mancha) que agrega otro 22%. Este mapa territorial no responde a un único patrón, sino a combinaciones de proximidad, demanda sectorial y localización de proyectos. El salto respecto a 2019 es igualmente significativo: el número de empresas, expedientes y trabajadores desplazados

se multiplicó (en torno a 2–3 veces), explicado tanto por la incorporación de CC.AA. antes ausentes en la muestra histórica como por un incremento real del fenómeno y un posible aumento del cumplimiento a la hora de notificar.

En cuanto a **sectores de actividad**, el desplazamiento hacia España en 2023 se concentra en construcción (47%) e industria (24%), con un peso también relevante de servicios (22%) y una presencia limitada de agricultura (6%). El análisis por CC.AA. revela especializaciones: servicios predominan en Cataluña, Baleares y Canarias; agricultura adquiere un peso elevado en Aragón (con desplazamientos asociados a empresas concretas y a flujos desde Rumanía). Una matización metodológica en este punto: existe una confusión recurrente ya que observamos que ciertas tareas (instalación/mantenimiento de maquinaria/metalurgia) se etiquetan de forma heterogénea como industria, construcción o servicios. La existencia del portal unificado desde 2025 debería mejorar esta clasificación, al exigir información más estructurada.

En relación con las **modalidades de desplazamiento**, y con la cautela derivada de la falta de reporte homogéneo de los datos, las notificaciones disponibles apuntan a que el desplazamiento se produce mayoritariamente en el marco de subcontratación (92–95%), con un peso reducido de desplazamientos intragrupo (3–5%) y una presencia baja de ETT (2–3%). Los datos específicos sobre ETT, aunque parciales, sugieren que los desplazamientos por esta vía son limitados y sectorialmente concentrados: perfiles técnicos e ingenieriles desde Alemania/Italia (industria/automoción) y contingentes de peones agrícolas (algunas notificaciones con NTE) en determinados territorios. Esta lectura se refuerza con evidencias complementarias desde de los PD A1, que sitúan a Alemania como uno de los países con mayor envío de trabajadores vía ETT a España.

La duración de los desplazamientos notificados confirma un patrón de movilidad temporal de duración media y baja. En 2023, el 66% de los desplazamientos tuvo una duración entre 1 y 6 meses, con predominio del tramo 1–3 meses (39%) y una proporción relevante por debajo de un mes (19%). Los desplazamientos de larga duración son minoritarios: los superiores a 12 meses se sitúan en torno al 6%. Se detectan perfiles distintos por sector: servicios e industria muestran desplazamientos muy breves (en muchos casos inferiores a 15 días efectivos), mientras que en construcción la duración media se acerca a 3–4 meses, con particularidades territoriales (p. ej., Galicia y Extremadura, con mayor presencia de desplazamientos prolongados vinculados a flujos portugueses). En conjunto, la duración media estimada es coherente con la evidencia europea basada en los PD A1 para 2023 (110 días), y encaja con un rasgo estructural del fenómeno: la reiteración de desplazamientos dentro del mismo año por parte de trabajadores y empresas.

Por último, también examinamos el **Registro de Empresas Acreditadas (REA)**, un registro administrativo obligatorio gestionado por las autoridades laborales regionales para los contratistas y subcontratistas que operan en el sector de la construcción. La inscripción en el REA es un requisito formal previo para participar en este sector y, por lo tanto, constituye un valioso indicador empírico. En diciembre de 2024, había 1503 empresas extranjeras registradas, con una clara concentración de Portugal (50 %), seguido de Italia (13 %), Alemania (9 %) y Polonia (5 %). La distribución territorial revela una importante concentración geográfica, especialmente en Galicia (29 %), Castilla-La Mancha (16 %) y Castilla y León (9 %). Más de la mitad de las empresas portuguesas estaban registradas en Galicia, lo que refleja una fuerte dinámica basada en la proximidad y la prestación de servicios transfronterizos. Los datos sectoriales indican además que el 69 % de las empresas extranjeras operan en actividades de construcción especializadas (porcentaje que asciende a aproximadamente el 74 % si se incluye la construcción general), lo que confirma su inserción en segmentos en los que la subcontratación es más frecuente y en los que tienden a intensificarse los riesgos asociados al desplazamiento de trabajadores. Aunque el registro en el REA no garantiza por sí solo la actividad económica real ni el cumplimiento sustantivo de las obligaciones laborales, los datos demuestran, no obstante, una presencia extranjera sustancial y estructuralmente concentrada en las cadenas de subcontratación de la construcción española.

Respecto del control de los desplazamientos en España:

El informe destaca el papel del Organismo Estatal Inspección de Trabajo y Seguridad Social (OEITSS) encargado de vigilar el cumplimiento de las normas laborales, incluida la prevención de riesgos laborales, pero también su correcto aseguramiento y cotización, o el derecho a trabajar de los extranjeros en España (NTE). **El número de inspectores** y sobre todo subinspectores se ha incrementado en los últimos años. En el marco de la OEITSS destaca la denominada Unidad Especial de Coordinación sobre Lucha contra el Fraude en el Trabajo Transnacional, también denominada EU Mobility, creada en 2020. Esta unidad coordina a la OEITSS con todas las Administraciones españolas implicadas en el desplazamiento de trabajadores, desde el punto de vista laboral, de seguridad social, migratorio e incluso fiscal, promoviéndose la firma de convenios de colaboración con organismos públicos autonómicos y nacionales implicados en tal fenómeno (IGSS, INSS, SEPE, Ministerio de Transportes, AEAT). La Unidad también es la oficina de enlace con la Autoridad Laboral Europea (ALE), ocupándose del intercambio de información y la cooperación administrativa con otros Estados miembros a través del sistema IMI. El personal asignado está formado por inspectores de trabajo expertos en fraude transnacional que participan y coordinan las intervenciones propias de la ITSS en esta materia, incluyendo inspecciones conjuntas o concertadas con otros países. A través de acciones financiadas por la ALE, por ejemplo, para generar *capacity building* la EU Mobility ha organizado workshops y training reuniendo a otras inspecciones e instituciones nacionales de seguridad social con las que España tiene especial relación (Portugal, Francia e Italia, entre otros Estados). Uno de los objetivos principales de esas acciones ha sido crear una base de datos útil para el control del desplazamiento entrante partiendo de la información sobre PD A1 recibidos por la seguridad social española a través de EESSI. Se trata de avanzar en la misma línea y crear una herramienta similar a la que ya tienen la inspección francesa, que siguió los pasos de la de Bélgica. La unidad sigue luchando contra el fraude de las empresas buzón establecidas en España o en otros Estados miembros y la mejora de la protección de los trabajadores desplazados desde España, sobre todo en caso de accidentes graves, poniendo en valor los informes de inspecciones foráneas, incluso ante los tribunales españoles.

En España no existen delitos *ad-hoc* asociados al desplazamiento, si no que se tipifican ciertas infracciones administrativas y sanciones (principalmente multas). La Unidad EU Mobility nos proporcionó la información disponible sobre los años 2023, 2024 y 2025. El informe recoge **datos sobre infracciones relacionadas con el desplazamiento**, sanciones impuestas, liquidaciones de la Seguridad Social obtenidas y distribución por sectores económicos. Entre 2023 y 2025, la Inspección de Trabajo española detectó 1,965 infracciones relacionadas con la movilidad de trabajadores dentro de la Unión Europea. La aplicación de la ley alcanzó su punto álgido en 2024, año en que las infracciones pasaron de 409 a 829, para luego descender a 727 en 2025. Las multas medias aumentaron de 4.330 € en 2023 a 7.800 € en 2024, y descendieron de nuevo a 5.750 € en 2025.

La información sobre las infracciones y sanciones se organiza en seis categorías: seguridad y salud, relaciones laborales, control de las declaraciones de desplazamiento, empleo y extranjeros, seguridad social y otras acciones. Entre 2023 y 2025 se detectaron alrededor de 50 infracciones relacionadas con seguridad y salud al año, con una sanción media de aproximadamente 5.000 euros por caso. Las infracciones en materia de relaciones laborales fueron mucho más frecuentes en 2024 y las sanciones medias aumentaron de 4.600 euros en 2023 y 2024 a 5.200 euros en 2025. El número de infracciones relativas al control de declaraciones de desplazamiento se redujo de 80 en 2023 a 44 en 2025.

Las sanciones más elevadas se concentraron en empleo de NTE y en seguridad social. Las infracciones relacionadas con NTE aumentaron considerablemente hasta alcanzar los 324 casos en 2024. Se nos ha indicado que estas infracciones están relacionadas, en buena medida, con desplazamientos desde Portugal. Las sanciones medias fueron de unos 10 000 euros, generando un total de casi 4 millones de euros en multas. El número de infracciones relacionadas con la afiliación a la seguridad social también fue significativo. Se detectaron alrededor de 200 infracciones en 2024 y 240 en 2025, lo que generó aproximadamente un millón de euros en multas y casi dos millones de euros en cotizaciones impagadas al año. Bajo el rubro de otras

infracciones apenas se detectaron un número reducido de casos relacionados con la obstrucción a las inspecciones, que conllevaron sanciones leves.

Por sectores, la construcción representó alrededor de un tercio de las infracciones, seguida del transporte (20 %), la hostelería (10 %), la industria manufacturera (7 %) y la agricultura (4 %). Si se comparan estas cifras con el volumen de trabajadores desplazados hacia España por sector, las infracciones en construcción y agricultura parecen ser ligeramente inferiores a lo esperado, y tampoco parece haber problemas con el desplazamiento hacia España a través de ETT. Por el contrario, el número de infracciones es más elevado de lo esperado en el transporte aéreo de pasajeros (14 %) y la hostelería (10 %).

1. Introduction

The intra-EU posting of workers is one of the most complex and controversial phenomena in the construction of the European internal market. It is difficult to strike a balance between the free provision of services and the effective guarantee of the labour and social security rights of posted workers. For more than a decade, attempts have been made to move towards greater control of postings, with increased supervision by labour authorities, now with the support of the European Labour Authority. Thanks to this European project, as well as greater institutional collaboration, more data on the phenomenon is available.

Despite limitations, PDs A1 on applicable social security legislation are currently the main source of data on posted workers. In Spain, PDs A1 are issued electronically by the General Treasury of Social Security (TGSS) when a worker is posted to another State to provide services on a temporary basis. In order to issue them correctly, increased information is required about the worker in question and the company posting them. In this report, thanks to the cumulative cross-referencing of much of this data, we have been able to identify, for the first time, the number of workers posted by Spain. In the context of this research, we would like to thank the Spanish Secretary of State for Social Security and the TGSS for their assistance and for making a significant effort to provide the requested data.¹

From the perspective of the receiving country, together with the PDs A1, prior notification tools are used at the national level. However, once again, as there was still no central register available for the period analysed, we had to undertake fieldwork to collect data on the number of notifications made by foreign companies to carry out the posting of workers to Spain in the framework of the provision of service. This data was obtained from the labour authorities of all the AA.CC.² which provided this information directly to the authors of this report through a centralised request by the OEITSS within the framework of the *Posting.stat 2.0* project³.

This second report, in addition to analysing the transposition of the Directives regulating this phenomenon (Directive 96/71/EC, revised by the (EU) 2018/957, Directive 2014/67/EU) and all the national transposition legislation, includes new data on the magnitude, evolution, nationality, origin, sector of activity, average duration and other information on the current situation and characteristics of the posting of workers in Spain. It also provides data on postings carried out by temporary employment agencies (TEAs) and data on subcontracting chains in the construction sector. On this last point, we have data from the Register of Accredited Companies (REA), which was provided by the Ministry of Labour and Social Economy.⁴ Finally, thanks to the help of the Special Coordination Unit for Combating Fraud in Transnational Work, which reports to the OEITSS, we have information on administrative infringements and penalties imposed by the Spanish authorities in relation to the posting of workers.

The quantitative and qualitative information provided in this report is the result of research carried out within the framework of the European project *Posting.stat 2.0*⁵ (funded by the European Commission under call ESF-2023-POW-UDW, ref. 101139955), which is a continuation of a previous project⁶ in which Spain also participated. *Posting Stat 2.0* brings together a consortium of universities and research centres from eleven Member States, the main senders and receivers of workers in the process of posting (Austria,

¹ We would like to thank Matilde Vivancos Pelegrín, Elena Martín Morata, Vicente Álvarez Ferruelo and Concepción Calle Mendoza for their ongoing collaboration in this work. We would also like to thank María Jesús Esteban Baos from the International Legal Department for her availability and support.

² With the exception of the Balearic Islands, however, we have used the data provided in 2020 for our first report on this autonomous community.

³ We would like to thank Manuel Pedro Velázquez Fernández (head of the Special Coordination Unit for Combating Fraud in Transnational Work, part of the OEITSS) and Juan Calvente Menéndez and Enrique González Alonso inspectors assigned to that Unit, for their help. We would also like to thank Gonzalo Giménez Coloma (Advisor to the OEITSS Management) for his collaboration.

⁴ We would like to thank Ricardo Morón Prieto, Juan Manuel Gutiérrez Hurtado and Beatriz García Martínez for their kind collaboration.

⁵ <https://hiva.kuleuven.be/en/research/theme/welfarestate/p/POSTING-STAT20>

⁶ <https://hiva.kuleuven.be/en/news/newsitems/posting-stat-enhancing-collection-and-analysis-national-data-on-intra-eu-posting>

Belgium, France, Germany, Italy, the Netherlands, Lithuania, Poland, Slovakia, Slovenia and Spain),⁷ and has several European social partner organisations and authorities as partners.⁸ The Catholic University of Leuven (HIVA - KU Leuven) is responsible for managing the project, and Frederic De Wispelaere, Lynn De Smedt, Dirk Gillis and Jozef Pacolet are the coordinators at European level.⁹

The main researchers for the project in Spain are Dolores Carrascosa Bermejo¹⁰ at the Pontifical University of Comillas and Óscar Contreras Hernández¹¹ at the University of Castilla-La Mancha, who have been responsible for obtaining, analysing, presenting and disseminating the results for the Spanish case.

1.1 Objectives, research questions and methodology

The main objective of this report, in line with the European *Posting.stat 2.0* project, is to contribute to a better understanding of the posting of workers in Spain and across the European Union through the analysis of administrative microdata. To this end, the report provides a comprehensive examination of the phenomenon, enabling researchers, academics, policymakers, social partners and other interested stakeholders to assess the current state of play on the basis of statistical data that allow the situation to be properly understood and contextualised. Indeed, it is extremely important to have sufficient and accurate statistical data by Member State in the field of posted workers, including in specific labour sectors. The lack of statistical information has hindered the possibilities of gaining an in-depth understanding of the economic, social and sectoral effects of the posting of workers, as well as the effectiveness and results of the legislation adopted. This project aims to contribute to improving this situation and facilitating informed decision-making.

The main **research questions** that have shaped the Spanish report are:

- What is the regulatory framework for the posting of workers in Spain, and what has been its possible impact?
- What is the volume and specific characteristics of intra-EU postings from and to Spain (countries of origin and destination, duration)? Who are the workers involved (gender, age, nationality)? What are the sectors of activity of the companies involved and their size? What are the specific characteristics of the main sectors identified, namely construction, road transport and agriculture?
- How is intra-EU posting controlled in Spain? What are the characteristics and magnitude of infringements and penalties related to this type of intra-EU labour mobility in Spain?

To answer these questions, a mixed **research methodology** (qualitative and quantitative) was used to provide results from an interdisciplinary perspective. Four phases were followed:

- 1) Interrelated analysis of regulations on the posting of workers from an employment perspective (including Spanish legislation transposing Directive 96/71/EC, Directive 2014/67, Directive (EU) 2018/957 and Directive (EU) 2020/1057) and the social security rights of posted workers through coordination regulations (Regulation EC/883/2004 and Regulation EC/987/2009).
- 2) Collection, processing and examination of PDs A1 issued by the TGSS between 2021 and 2023.
- 3) Obtaining data, standardisation and analysis of communications made to the labour authorities of the AA.CC. for the posting of workers to Spain between 2021 and 2023. Obtaining data from the Register

7 CELSI - Central European Labour Studies Institute (SK); COMILLAS Pontifical University of Comillas (ES); CUE Cracow University of Economics (PL); ELMI European Labour Mobility Institute (PL); European Centre for Social Welfare Policy and Research (AT); SEO – SEO Amsterdam Economics (NL); LCSS Lithuanian Centre for Social Sciences (LT); UCLM University of Castilla-La Mancha (ES); UNISTRA University of Strasbourg (FR); UNIVE Ca' Foscari University of Venice (IT); WMP consult Wilke Maack GmbH (DE); ZRC SAZU Research Centre of the Slovenian Academy of Sciences and Arts (SI)

8 ACV/CSC Transcom Confederation of Christian Trade Unions - Transport and communication (BE); CEEMET Council of European Employers of the Metal, Engineering and Technology-based industries; EFBWW European Federation of Building and Woodworkers; SIOD/SIRS - The Social Intelligence and Investigation Service (BE)

9 [Link to all publications and reports on national results of the POSTING.STAT. 2.0 project](#)

10 Doctor of Law and Associate Professor of Labour and Social Security Law at the Pontifical University of Comillas (ICADE). National expert and analyst for the European Commission's MoveS Network on the free movement of workers, posting of workers and social security coordination.

11 Doctor of Law and Professor of Labour and Social Security Law at the University of Castilla-La Mancha (UCLM).

of Accredited Companies (REA) and from declarations made by Spanish road transport companies through the IMI.

- 4) Collection of data on the control of posting; analysis of national regulations on infringements and penalties relating to posting in Spain and the results provided by the OEITSS for the period 2023-2025.

These phases have been complemented by doctrinal research, collaboration and participation in the four phases of analysis and thematic seminars held within the framework of the Posting Stat 2.0 project focusing on key sectors and issues (transport, construction, TEAs intermediation, improvement of statistics),¹² and also by interviews with competent institutions, experts and other subjects related to posting.

Our analysis considers Spain as a sender and receiver of workers posted by companies established in other EU Member States, the European Economic Area and Switzerland¹³ with occasional specific reference to third countries such as the United Kingdom and the territory of Gibraltar.¹⁴ The report focuses more on the sending perspective, as we have a larger amount of higher quality data available. Analysis of the 2023 data allows us to glance at the evolution of posting in a period marked by the consolidation of EU labour legislation on posting and by greater requirements for the companies involved when it comes to reporting postings.

1.2 Data quality and limitations of PDs A1 and notifications made to the AA.CC.

Although the use of PDs A1 is undoubtedly valid for contextualising the phenomenon of the posting of workers and estimating its scale, it should be taken into account that PDs A1 do not correspond one-to-one with posted workers, as it is generally acknowledged that the number of PDs A1 issued (Art. 12) exceeds the actual number of posted workers. Indeed, the same worker may be posted several times within a single year and may therefore be issued with multiple PDs A1. For this reason, a correction or reduction coefficient is usually applied, on the assumption that, on average across the EU, a posted worker is sent 1.7 times per year (De Wispelaere, De Smedt & Pacolet, 2025: 41). In many cases, PDs A1 may not be issued for the provision of services, but simply for business trips or may affect self-employed workers who are excluded from the Posting Directives. Indeed, there are major differences between the objectives and scope of the Coordination Regulations and the Posting Directives (Carrascosa and Molina, 2023: 80). Furthermore, it is clear that many of the PDs A1 (Art. 13) are not issued in relation to posting situations, but rather to protect the mere simultaneous work habitually carried out in two or more Member States.

Another limitation is that not all posted workers carry a PD A1. Sometimes, they are only requested by employers in case of problems with the receiving country's inspection authorities, as permitted by the coordination regulations, in line with the case law of the CJEU, which grants them retroactive effect (Carrascosa, 2025). However, this trend has been counteracted by the decision of some States to penalise companies whose posted workers do not have a PD A1 (Carrascosa and Molina, 2023: 86; De Wispelaere, De Smedt and Pacolet, 2025: 23). This is a controversial practice that has led employers posting workers to these Member States to apply for PDs A1 in advance, as recommended in Article 15(1) of Regulation (EC) No 987/2009. Considering this practice, the number of PDs A1 issued may depend on the intensity of the enforcement activities carried out by the labour inspectorate receiving Member State, as well as on the penalties laid down in its legislation. Finally, in cases where postings exceed 24 months, and in the absence of an agreement between the competent institutions to maintain social security contributions in the country

¹² <https://hiva.kuleuven.be/en/research/theme/welfarestate/p/POSTING-STAT20>

¹³ The following countries are members of the European Free Trade Association (EFTA): Norway, Iceland, Liechtenstein and Switzerland. Only the first three are members of the Agreement on the European Economic Area with the EU; an ad hoc agreement was signed with Switzerland. In all of them, the rules on the free provision of services (including the free movement of workers) apply, with EU law on the posting of workers applying from both an employment and social security perspective.

¹⁴ Both territories were included in the Withdrawal Agreement, under which the coordination regulations continue to apply. However, Gibraltar is excluded from the Trade and Cooperation Agreement signed subsequently. An ad hoc agreement between the EU and the United Kingdom is expected to be signed for this territory, which was still pending at the time of writing (on the situation with the United Kingdom and Gibraltar, see Carrascosa, 2021).

of origin pursuant to Article 16, the posted worker will begin to contribute in the receiving country, and the PD A1 will no longer be issued, as it would no longer serve its intended purpose.

There are also certain limitations regarding the data obtained from the prior notification tools of the labour authorities of the AA.CC. The main causes for the **underrepresentation of the data** provided, could possibly include the lack of notification of many postings (Carrascosa and Contreras, 2022: 17; 47), the non-obligation to notify postings of less than 8 days and the non-obligation to report postings of road transport drivers. These circumstances make it impossible to count and analyse a significant volume of postings of workers to Spain. We are aware that very short-term postings (around 5 days) are common, so we consider this legal exception to the reporting obligation to be a significant shortcoming that prevents us from having a complete picture of the true number of workers posted to Spain and the characteristics of this type of unreported posting. As already highlighted in previous studies, it prevents or hinders control by the ITSS (Carrascosa and Contreras, 2022: 46). Furthermore, the available data has limitations in terms of quality and standardisation, firstly because in many cases the information is incomplete as it does not include some of the requested data, and secondly because some of the data that could be standardised in a single unified database for statistical use is unclassifiable.

From the point of view of the **overrepresentation of the data** used to determine the scale of the posting of workers to Spain, the following aspects could be mentioned. On the one hand, notifications to the Central Register or to the AA.CC. themselves do not guarantee that the posting has taken place. Furthermore, they may be duplicated, i.e. the same posting may have been notified to several regions. On the other hand, the REA data are not definitive, as they merely provide a snapshot of construction companies registered on a given date, without indicating whether those companies are actually providing or have provided services in Spain. This is due to the fact that registration in the REA is valid for three years and does not need to be cancelled if the company ultimately does not carry out any activity in Spain. Similarly, data on postings in the road transport sector obtained through the IMI system do not appear to be of significant statistical value. These data do not ensure that companies have effectively operated in Spain, as the reference to Spain in such communications, much like, to a certain extent, PDs A1 (Art. 13) may be purely preventive. Spain is included as a potential destination in case a driver or transport undertaking eventually operates there, but this does not guarantee that workers have actually been posted to the Spanish territory.

In any case, we understand that all the sources of information mentioned are valuable, although their importance must be weighed fairly. The compilation and analysis of this information represent a step forward in our quantitative and qualitative understanding of the phenomenon.

2. Legal framework of posting of workers in Spain

This chapter analyses the legal framework for posting, distinguishing between the two main legal relationships involved: on the one hand, the labour aspect through the transposition of the various directives on posting and, on the other hand, the social security aspect, which is governed by the directly applicable coordination regulations.

2.1 The employment relationship: transposition of the Posting Directives and other applicable regulations

This section analyses the most important elements of the transposition of the Posting Directives in Spain, emphasising the impact of the transposition of Directive (EU) 2018/957. As the Enforcement Directive, this regulation was transposed into Spanish law with some delay¹⁵ through emergency regulations approved by the Government in order to be able to transpose many other Directives simultaneously¹⁶. The main Spanish labour legislation on posting is Law 45/1999. However, the transposition of the directives listed in the table below has led to the amendment of other national regulations that have also been included in it.

In general, the four directives (see Table 1) regulating the posting of workers have been correctly incorporated into Spanish law. Regarding Directive 96/71/EC, Spain passed the Commission's review, and the approved legislation has never been challenged before the CJEU. About the Directive 2014/67/EU, Spain is one of three Member States together with Portugal and Sweden that did not receive a letter from the EC on 15 July 2021 questioning its implementation¹⁷. This mass sending of requests is an example of the excesses that may have been committed in the national implementation of this Directive, which has multiplied the administrative obligations of companies that engage in the posting of workers. The EC questions the adequacy and proportionality of certain national measures adopted in relation to “administrative requirements and control measures”, such as the obligation to notify the posting, keep certain documentation available and measures to ensure compliance and the national penalty system established. On this last issue, the CJEU has already ruled that certain penalties are disproportionate¹⁸.

Table 1. National transposition

| DIRECTIVES ¹⁹ | MAIN NATIONAL TRANSPOSITION LEGISLATION |
|--|---|
| Directive 96/71/EC concerning the posting of workers in the framework of the provision of transnational services | Law 45/1999 (In effect since 1st December 1999) https://www.boe.es/eli/es/l/1999/11/29/45/con |
| Directive 2014/67/EU (Enforcement Directive) | Royal Decree-Law 9/2017 Title IV (In effect since 27th May 2017) https://www.boe.es/eli/es/rdl/2017/05/26/9 |
| Directive (EU) 2018/957 (amending the Posting of Workers Directive) | Royal Decree-Law 7/2021 Title VI (In effect since 29th April 2021) https://www.boe.es/eli/es/rdl/2021/04/27/7 |
| Directive (EU) 2020/1057 on the posting of workers in road transport | Royal Decree-Law 3/2022 (In effect since 2nd March 2022) https://www.boe.es/eli/es/rdl/2022/03/01/3 |

Source: Own elaboration.

¹⁵ Directive 2014/67/EU had a transposition deadline of 18 June 2016, but Spain transposed it almost a year later, with the urgent legislation being published on 27 May 2017 and entering into effect on the same day.

¹⁶ In the case of the latest transposition, inclusion in the legislation came after the urgent approval of a draft bill in January 2021. Finally, the Council of Ministers approved Royal Decree-Law 7/2021 of 27 April to transpose Directive (EU) 2018/957.

¹⁷ All Member States except Spain, Sweden and Portugal received this letter, which focused mainly on the defective transposition of Articles 9, 11, 12 and 20 of this Directive, as well as the measures contained in Chapter IV.

¹⁸ Judgment of the CJEU of 12 September 2019, *Maksimovic and joined cases* C-64/18, C-140/18, C-146/18 and C-148/18, ECLI:EU:C:2019:723

¹⁹ An updated overview of these Directives at Garate, 2025 : 417-457

Since the transposition of the Directive on **international road transport**, Law 45/1999 has included Chapter V with special rules for road drivers, which defines and classifies the different types of international transport operations, excluding, in some specific cases, the existence of a real situation of posting due to a lack of connection with the State of destination²⁰. Where posting is deemed to exist, the special rules apply only to the transport of goods and passengers where there is a contract for the provision of services between companies, even where a company is established in a third country and has access to the EU internal market under certain international agreements. The main peculiarity for posted drivers is that the employer's obligations in relation to their salary and paid annual leave are present, in any case, regardless of the duration of the posting, from the first day of posting²¹. Another peculiarity in the case of posted drivers is that the provisions of Article 5 of Law 45/1999 do not apply to transport companies: they are not obliged to notify the labour authorities of the AA.CC. of the posting. In any case, as established in Article 22 of Law 45/1999, the transport company must notify the posting before it begins, using a standard form from the public interface connected to the IMI, established by Regulation (EU) 1024/2012²².

Table 2. Other national regulations affecting transnational posting in Spain

| OTHER RELATED ISSUES | APPLICABLE REGULATION |
|--|--|
| Occupational risk prevention | Law 31/1995 on Occupational Risk Prevention https://www.boe.es/eli/es/l/1995/11/08/31/con |
| Temporary Employment Agencies (TEAs) | Law 14/1994 (Articles 22, 23 and 26) https://www.boe.es/eli/es/l/1994/06/01/14/con |
| Subcontracting in the construction sector Limits on subcontracting chains Register of Accredited Companies (REA) | Law 32/2006 https://www.boe.es/eli/es/l/2006/10/18/32/con Royal Decree 1109/2007 https://www.boe.es/eli/es/rd/2007/08/24/1109 |
| Offences and Penalties in the Social Order (LISOS) | Royal Legislative Decree 5/2000 (LISOS). Art. 2.11; 3.1;10: 19b and 19c. https://www.boe.es/eli/es/rdlg/2000/08/04/5/con |
| Labour and Social Security Inspection System Special Unit for the Coordination of the Fight against Fraud in Transnational Labour * | Law 23/2015 (Art. 12.1.4, 13.2, and 16) https://www.boe.es/eli/es/l/2015/07/21/23/con (*) Order TES/967/2020 https://www.boe.es/eli/es/o/2020/10/06/tes967/con |
| National Workers from Third Countries | All of the above, and Instruction DGI/SGRJ/O8/2008 , relating to the legal system applicable to non-EU workers posted to Spain in the context of transnational service provision ²³ . |

Source: Own elaboration

As noted in the previous *Posting.Stat* report²⁴, from an economic and social point of view, the posting of workers is not a highly contentious issue in Spain and has not been the subject of much litigation. The fact that there is no Supreme Court case law on the application of Law 45/1999 proves this. Undoubtedly, the application of European legislation on posting of workers in Spain has been facilitated by the current

²⁰ See Articles 19, 20 and 21 of Law 45/1999.

²¹ See Article 18(1)(3) of Law 45/1999.

²² Since 2 February 2022, the 'EU Portal for road transport posting declarations' became the obligatory prior declaration tool that operators must use when posting drivers to another Member State. See: <https://www.postingdeclaration.eu/>

²³ This technical instruction regulates the legal system applicable to non-EU workers posted to Spain in the context of transnational service provision. These workers do not need authorisation to work in Spain provided that the work is carried out in their capacity as posted workers as defined in Law 45/1999. They must be authorised to work in the Member State of establishment where they carry out their main activity, of which they form part of the labour market and to which they return once the provision of services has ended.

²⁴ Available at: <https://zenodo.org/records/6543137>

collective bargaining system, which allows for the *erga omnes* application of statutory agreements, i.e. those that meet the requirements of Title III of the Workers' Statute²⁵ and by the priority application of sectoral collective agreements on wages.

2.1.1 Working conditions in the case of the posting of workers to Spain

The working conditions that must be respected in Spain in the case of intra-EU posting of workers are set out in national legislation, in sectoral collective agreements and, where applicable, in any arbitration awards. Spain had already foreseen the application of the conditions listed below on a general basis when Directive 96/71/EC was transposed, affecting all sectors, not only construction. The extended provisions resulting from Directive (EU) 2018/957 refer to the matters contained in points (j) and (k) of the following list (Art. 3.1 Law 45/1999), which means that from the start of the posting, Spanish legal and sectoral regulations must be applied to posted workers if they offer greater protection than the law applicable to their contracts regarding the following matters:

(a) Working time. Although Spanish law refers only to the legal regulation of this matter, it is clear that any improvements established in the sector's collective agreements must be complied with. Although EU law on this matter is relevant, there are still significant differences between the national rules governing this matter (more information on such regulation and its impact in Spain in Carrascosa, 2022: 119).

(b) Remuneration. Since its initial transposition in 1999, Spanish posting law has referred to salary²⁶ (not the legal or agreed minimum wage) as the form of payment for posted workers. Article 4 of Law 45/1999 provides that, for the purposes of comparison, the relevant salary is that corresponding to the professional group or category applicable to the posted worker in relation to the service to be performed. In addition, all salary items (basic salary, supplements, extraordinary bonuses, overtime, additional hours and night work) must be included with the express exclusion of supplementary social security contributions relating to retirement. On the other hand, as regards the comparison to be made, the transposition now clarifies that supplements **for posting**, which are considered salary, must be included. Therefore, reimbursements of expenses (e.g. travel, accommodation and meals) will not be considered. The same applies when it is unclear whether certain supplements are salary or not according to the legislation applicable to the employment contract (i.e. there are doubts about their nature). Such supplements should not be considered part of the salary (Art. 4.3 2nd Law 45/1999). This law establishes a **special rule for TEAs**, requiring them to compare the worker's salary (according to their contract or foreign agreement/law) with the total compensation established for the work to be performed according to the Spanish collective agreement applicable to the user company, calculated per unit of time. This payment must include, where applicable, the proportional part of weekly rest, extraordinary payments, public holidays and vacation time. The user company is responsible for quantifying final compensation, and the user company operating in Spain must include this salary in the service provision contract (Art. 4.2 Law 45/1999).

(c) Equal treatment and non-discrimination, direct or indirect, on grounds of sex, origin, including racial or ethnic origin, marital status, age within the legal limits, social status, religion or beliefs, political opinion, sexual orientation, membership or non-membership of a trade union and its agreements, family ties with other workers in the company, language or disability, provided that the workers are suitable and able to perform the work or job in question.²⁷

(d) Prohibition of child labour.²⁸

(e) Prevention of occupational hazards, including standards relating to maternity protection and childcare.

25 This made the transposition of Article 3.8 of Directive 96/71/EC unnecessary. See Title III of RDL 2/2015 (Workers' Statute), available at: <https://www.boe.es/eli/es/rdlg/2015/10/23/2/con>

26 Law 45/1999, Art. 3.1b)

27 This list was updated by Law 62/2003, which transposes Directives 2000/43/EC and 2000/78/EC. However, the 'new' grounds for discrimination, such as illness or sexual identity, provided for in Law 15/2022 of 12 July on comprehensive equal treatment and non-discrimination, have been included. This law did not expressly amend the Posting of Workers Act (Law 45/1999).

28 According to the ET, art. 6)

(f) Non-discrimination against temporary and part-time workers.

(g) Respect for the privacy and dignity of workers.

(h) Freedom of association and the rights to strike and assemble. This provision was also included in the original transposition of PWD under the protection of our public order, as fundamental rights that they are. Interestingly, Spain stated in its communication to the EC on 9 December 2020 that this minimum condition guaranteed to posted workers was the transposition of the so-called "Monti clause"²⁹ contained in Article 1.1a of Directive (EU) 2018/957.³⁰

(i) The conditions for the transfer of workers, as TEAs are subject to special rules in the Posting of Workers Act (see Act 45/1999, Articles 3.2 and 7), always taking the specific regulations for TEAs into account³¹.

(j) The conditions of accommodation for workers when the employer must provide them to their own workers outside their usual place of work.³² The applicability of this condition depends on whether the employer must grant this right to their own workers. In Spain, this obligation only arises from certain OHS regulations when work outside the workplace is very far from the workers' place of residence, making it impossible for them to return,³³ and from regulations on collective management of recruitment at source, especially in the agricultural sector³⁴ (Velázquez, 2021: 84). The lack of regional regulations means that sectoral collective agreements are of key importance in this area.

(k) Allowances or reimbursements to cover travel, accommodation and subsistence expenses for workers who are away from their usual (temporary) place of residence in Spain for work reasons or because they are temporarily transferred to another place of work in Spain or abroad.³⁵ This new inclusion makes it clear that it only refers to mobility from or within Spain, so it does not appear to cover travel to Spain as the destination country. Within Spain, in the absence of a more beneficial agreement, the provisions of Spanish labour legislation would apply.³⁶

2.1.2 Long-term postings to Spain

As a general principle, Spanish law defines a posting as long term where its effective duration (rather than the anticipated duration, as traditionally considered under social security coordination rules) **exceeds 12 months**. In such cases, regardless of the law governing the posted worker's employment contract, even more favourable working conditions applicable in the receiving Member State, as laid down in national legislation, collective agreements and awards, must be ensured. **Two specific matters, however, continue to be governed by the *lex causae***, even where the level of protection afforded is lower than that provided under Spanish law: (a) the procedures, formalities and conditions relating to the conclusion and termination of the employment contract, including non-competition clauses; and (b) supplementary occupational pension schemes.

If the posting company considers that the 12 months of posting will be exceeded, it may send a reasoned notification to the labour authority to extend the posting for up to 6 more months (up to a total of 18 months) without it still being considered a long-term posting. No deadline or procedure is established for the notification; the only requirement is that it must be made before the initial 12 months expire. It is

²⁹ On the exercise of the right to take collective action in the context of freedom of establishment and freedom to provide services and the proposed "Monti II Regulation", see Castelli (2012).

³⁰ This article states that "this Directive shall in no way affect the exercise of fundamental rights as recognised in the Member States and at Union level, including the right or freedom to take strike action or other action provided for in the specific industrial relations systems of the Member States, in accordance with national law and/or practice. Nor shall it affect the right to negotiate, conclude and enforce collective agreements or to take collective action in accordance with national law and/or practice."

³¹ Law 14/1994, of 1 June, regulating TEAs; <https://www.boe.es/eli/es/l/1994/06/01/14/con>

³² Law 45/1999, Art. 3.1.j

³³ RD 486/1997 Annex V.A). 4.2^o regulating the conditions of such accommodation and the sectors in which it is relevant (mobile construction sites, extractive industries, fishing vessels, means of transport, agricultural and forestry companies).

³⁴ Order ISM1289/2020, art. 3.2.b and Annex XI

³⁵ Law 45/1999, art. 3.1.k

³⁶ ET, Art. 40.1.3 on relocation expenses or, more likely, the provisions of Art. 40.6 on travel.

not currently very clear who the competent authority to grant such an extension is. It could be assumed that it is the Autonomous Community where the posting has been notified, although this is now done with a national registry. Transferring this prerogative to the national labour authority would avoid doubts in cases where the posting is to more than one AA.CC., since if the first criterion were followed, a notification of extension would perhaps have to be submitted to the labour authority where the services are provided³⁷.

Anyway, the notification regarding long term posting is understood to be a mere declaratory procedure and not an administrative authorisation, and, in accordance with European case law, the labour authorities do not have the power to deny the extension, as this could represent an unjustified restriction of the freedom to provide services under Art. 56 TFEU³⁸. However, it seems that the Spanish authority should take this into account and perhaps carry out some kind of control, as the LISOS (Article 10.2 *a in fine*) included “giving an account to the competent authorities of the reasons for the extension of the posting, alleging facts and circumstances that are proven to be false or inaccurate” as a new serious administrative offence.

When calculating the months that transform a common posting into a long-term one, paid annual leave and other short interruptions such as other breaks or paid leave provided for in Spanish labour legislation (also in sectoral agreements and awards) or those based on the same causes, even if regulated by the *lex causae* must be included. The Spanish transposition of this issue fails to identify the period that must elapse before the posting of workers is no longer considered a replacement for a previous one. As will be pointed out, in the field of social security, according to the interpretation of the Administrative Commission, two months were established as standard. Nevertheless, in the field of labour, according to the PWD, nothing is said about the time that must elapse for the time elapsed to be reset to zero³⁹.

For the purposes of calculating the necessary periods, the focus should be on the work performed in the job. In other words, if the assignment is extended beyond 12 months (or 18 months if such extension was notified in advance) in the same job, even if it has not been performed by the same worker throughout, it can be understood that the posted worker occupying that job at the end of the maximum period (12+6) would be the beneficiary of the change in conditions associated with long-term posting by accumulating the posting periods of all the workers who preceded him or her in performing the same activity. The guidelines for identifying the existence of “the same job in the same place” must take the nature of the service provided at transnational level, the work performed and the address or addresses of the workplace into account. The inspection by the receiving country should check all these issues, which does not seem to be a simple matter.

In any case, it should be considered that long-term posting will continue for as long as the service is provided, as there is no time limit for posting. This is essentially what will happen with a posting of workers that continues after the aforementioned period (12+6) has elapsed. If the labour regulations of the host State are more protective, the legal consequence is clear: costs will increase for the company, which will have to improve the working conditions of its workers until they are made equal (excluding the two conditions mentioned above). However, workers posted by companies established in the wealthier Member States will not notice the change to long-term posting, as working conditions in the receiving country will normally be inferior to those governing the legislation applicable to their posted workers. For them, the posting rules will remain neutral, as they will retain their original working conditions, which obviously do not give them a competitive advantage in the single market.

37 A centralised national website ([Law 45 Portal](#)) has been in place since January 2025 for notifying postings to Spain. The first requirement is to report the region in which the services will be provided, so that once selected, the system connects to the labour authority to which the communication will be sent.

38 See, among others, the judgments of the CJEU of 7 October 2010 (*Dos Santos Palhota and others*, case C-515/08), paragraphs 34 and 35, and of 19 January 2006 (*Commission v Germany*, case C-244/04), paragraph 34.

39 See Decision No 2 CACSS, point 3(c), which admits, without applying the *lex loci laboris*, that a worker who has already been posted for 24 months may be posted again to the same companies in the same State, when two months have elapsed since the last posting. In fact, the mere change of State also resets the time elapsed to zero. For more on this issue, see (Carrascosa and Molina, 2023).

2.1.3 Posting to Spain by temporary employment agencies and between user companies

TEAs established in other EU/EFTA Member States may temporarily assign their workers to user companies established or operating in Spain. All this is without prejudice to compliance with the regulations governing the entry, stay, work and establishment of foreigners in Spain, as well as tax obligations. Foreign TEAs are not required to have accreditation or a licence in Spain for the posting of workers to Spanish user companies, but they must have this qualification in their countries of origin. This is required by Article 22 of Law 14/1994 with regard to a TEA established in another Member State that may temporarily send its workers to user companies established or operating in Spain when the following requirements are met:

- a) In accordance with the legislation of its State of establishment, the TEA must be validly constituted and meet the requirements for supplying workers to user companies. This requirement does not appear to be in line with the recent interpretation by the CJEU of the Temporary Agency Work Directive. Indeed, the CJEU judgment of 24 October 2024, C-441/23 ECLI:EU:C:2024:916, establishes that it is possible for a company that supplies workers to another company to be considered a TEA within the meaning of Directive 2008/104/EC, even if it is not authorised by a national administration. The relevant question is whether it is actually making its workers available to a user company⁴⁰, i.e. whether it is assigning them. Paragraph 34 of that judgment states: “Nothing in the definition of TEA in Article 3(1)(b) of Directive 2008/104/EC requires that, in order to be considered a TEA within the meaning of that directive, an undertaking must have obtained prior administrative authorisation to carry out that activity in the Member State in which it operates”. In any event, the CJEU judgment we are discussing is very recent. Moreover, in this specific case, it eliminated the possibility of considering the employer to be a TEA, also clarifying that Microsoft, the user company, did not have an employment relationship with the worker at the time of her dismissal (see paragraphs 67 to 77 of the CJEU judgment, 24 October 2024, C- C-441/23 ECLI:EU:C:2024:916).

Under Spanish labour law, only a TEA can legally assign workers. Companies that are not authorised as TEAs and make workers available to another company are guilty of what is known as the “illegal assignment of workers,” which may give rise to administrative or even criminal liability, including obligations for the user company, which may be considered the actual employer of the assigned worker.

In our view, in light of the above-mentioned CJEU ruling, a posting carried out by a TEA may be regarded as such, together with all the specific features inherent to this type of posting, irrespective of whether the undertaking is formally recognised as a TEA by the labour authority of the Member State of origin. Similarly, under the Spanish transposition of Directive 2008/104/EC, the decisive factor is not whether a foreign company established in another country is formally classified as a TEA in its country of origin, but whether it is effectively found, in practice, to be assigning or making posted workers available to a user undertaking established in Spain.

- b) The assignment contract between the foreign TEA and the user company established or operating in Spain must be formalised in writing without prejudice to the applicable legislation, which may not be Spanish. It also must comply with the provisions of Chapter II of Law 14/1994.
- c) It shall be subject to Spanish regulations on the posting of workers in the framework of the provision of transnational services (Law 45/1999) and must guarantee its posted workers the working conditions provided for therein - fundamental rights - and those stipulated for long-term postings.
- d) It must notify the competent Spanish authorities (Autonomous Communities or now the Central Register, although this is not mentioned) of the posting in accordance with the terms of Article 5 of the Spanish Posting Law.

With regard to workers, more protective conditions apply to workers posted by a TEA to a Spanish user company. Spanish legislation has always stipulated that TEAs posting workers to Spanish territory must

⁴⁰ The scope of application of this Directive was broad and flexible long before the aforementioned judgment, see San Martín: 611.

comply with the conditions laid down in the Law 14/1994, which also incorporated Directive 2008/104/EC (Art. 3.2 Law 45/1999 on posting of workers). In addition, it must guarantee the core conditions and those associated with long-term postings, The Temporary Employment Agencies Act imposes virtually equal treatment for posted workers, taking into account the rights of the workers of the user company (Arts. 11 and 22 Law 14/1994).

Although national legislation already provided for this, Directive (EU) 2018/957 clarifies that, in the context of posting through TEA, so-called “chain posting” is permitted (i.e. posting to Spain – State C – by a user company established in another State B where the worker was made available by a TEA established in another Member State A). The TEA in State A, which assigned the worker to this user company in State B, assumes full responsibility for compliance with the obligations associated with the PWD (Gárate, 2019: 387). In short, this TEA is considered responsible for the posting of workers, even though:

- i) The user company has signed a service contract with a Spanish company where the posted worker, hired by the TEA, will ultimately work.
- ii) The posted worker provides services at a workplace in Spain belonging to the user company or on behalf of another company in the group to which the user company belongs.⁴¹

In any case, Spanish posting regulations stipulate that if the person posted to Spain by the user company in State B, despite the formal appearance of posting, becomes subject to the management authority of the Spanish company or companies, i.e. loses the link with the user company in State B, the posting rules applicable to the case will continue to apply without prejudice to the appropriate liabilities being enforced in the event of illegal transfer of workers.⁴² In such a case of illegal transfer, in accordance with recent case law of the CJEU mentioned CJEU, 24 October 2024, C- C-441/23 ECLI:EU:C:2024:916, the user company in State B could be treated in Spain as if it were a TEA.

In the context of these chain postings of workers, additional information must be provided in the notification that the TEA must make to the Spanish authorities. Furthermore, it should be noted that both this company and the user company must comply with the Spanish working conditions guaranteed in the event of posting, with express reference to the national prevention regulations that refer to the distribution of preventive obligations in these cases, with the TEA being the company responsible for health surveillance (Law 31/1995, art. 8.5).

This chain posting of temporary workers is contemplated in Spain in **both possible directions**, i.e. when Spain is the host Member State, but also when it is the sending Member State. The **user company operating or established in Spain** that sends the temporary worker to another Member State is obliged to record the periods of posting in the service provision contract signed with the receiving company. It is also obliged to inform the TEA sufficiently in advance so that the latter can make the corresponding notification "within the period provided for that purpose by that other State"⁴³. Similarly, employers who **send posted workers to Spain** must notify the TEA of such posting so that the latter can notify the Spanish authorities in a timely manner. Failure to comply with these notification obligations constitutes an administrative offence (Art. 19 *ter* and *quater* LISOS).

2.1.4 Posting of workers and subcontracting chains in the Spanish construction sector

The legal framework for subcontracting in the construction sector in Spain is mainly determined by Law 32/2006, which regulates subcontracting in the construction sector, and by its implementing regulation, Royal Decree 1109/2007. Both provisions expressly seek to improve working conditions, health and safety in a sector historically characterised by high accident rates and intense fragmentation of the production

⁴¹ The concept of a group of companies is that formed by a company and its subsidiaries under the terms of Law 10/1997, art. 4, on the rights of information and consultation of workers in companies and groups of companies of Community dimension (Law 45/1999, art. 1.1.1 b) 2°).

⁴² Law 45/1999, Art. 2.1.1°c

⁴³ Law 14/1994, Art. 23.2.

process. Alongside this preventive objective, the legislator introduces clear limits on subcontracting chains, with the aim of avoiding excessively complex business structures that hinder administrative control and the identification of labour and social security responsibilities.

Spanish regulations define the legitimate use of subcontracting, establishing that it can only be used for specialised work or services and not for the structural execution of the company's main activity. This requirement is consistent with the criteria established by Directive 2014/67/EU to identify genuine postings and prevent situations of fraud or abuse and seeks to reduce the risks of abusive use of foreign companies that post their workers to meet permanent labour needs in the construction sector, which could conceal situations of illegal transfer of workers or unfair competition based on lower labour costs resulting from the incorrect application of Spanish regulations.

Article 5 of Law 32/2006 establishes a general maximum of three levels of subcontracting in construction works in Spain, allowing a fourth level only in exceptional circumstances linked to the execution of highly specialised work. An example: Main company X promotes the construction of a residential building in Spain. To carry out the work, main company X hires a main contractor (company A), which takes on the overall execution of the work. Company A subcontracts a first subcontractor (company B) to carry out the concrete structure. Company B, in turn, subcontracts a second subcontractor (company C) to install the formwork. Finally, the company C subcontracts a third subcontractor (company D) for auxiliary assembly tasks. At this point, the legal maximum of three levels of subcontracting generally permitted in the construction sector would be reached. Only in exceptional cases, for example, if it were necessary to install a highly specialised technical system, such as structural reinforcement using unique technology, could a fourth level be authorised, if it is adequately justified in accordance with Article 5 of Law 32/2006.

This limitation is particularly relevant in the context of the transnational posting of workers, as subcontracting chains involving companies established in other Member States may increase the risk of regulatory circumvention, especially when intermediary companies or corporate structures that are difficult to trace are used. Although Law 32/2006 does not specifically regulate the posting of workers in Spain, it does facilitate control in this area by imposing specific obligations on the sector where, as we shall see, a large proportion of postings in Spain take place. Furthermore, the legal restriction on the number of levels facilitates the effective application of the minimum working conditions required in Spain for workers posted abroad, in accordance with the requirements derived, above all, from Directive 96/71/EC, revised by 2018/957.

Law 32/2006 also incorporates a joint and several liability systems that strengthens the protection of labour rights. Under this system, the main contractor is jointly and severally liable for the non-payment of wages and social security contributions owed by its subcontractors (Art. 7 Law 32/2006). This provision, in direct connection with Article 12 of Directive 2014/67/EU, is particularly relevant in the field of the posting of workers, where it is not uncommon for companies to fail to comply with their wage or social security contribution obligations and, on occasions, to cease their activity or leave the national territory, making it difficult to enforce individual claims. The joint and several liability of the main contractor thus acts as an additional guaranteed mechanism for posted workers and as an incentive for main companies to exercise effective control over regulatory compliance throughout the subcontracting chain. However, the practical effectiveness of this measure has not been verified, as no labour claims have been found from posted workers claiming their rights from the main construction company.

In order to operate in the construction sector in Spain, it is mandatory to be registered in the Register of Accredited Companies (REA), a public administrative register created by Law 32/2006 (art. 6) with the aim of controlling subcontracting in the sector and developed by Royal Decree 1109/2007. Thus, all companies involved in construction work as contractors or subcontractors, provided they employ workers, must register with the REA and prove compliance with the legal requirements relating to their business capacity and occupational risk prevention. In the case of foreign companies that carry out the posting of workers to

Spain, registration in the REA is an essential prerequisite for participating in construction projects. This strengthens administrative control over the entry of foreign economic operators into the national market.

From the perspective of business obligations, contractors and subcontractors must demonstrate their own organisational and productive capacity, which must be proven to the competent labour authorities through their registration in the REA (Art. 4.2 Law 32/2006). This requirement also applies to foreign companies that engage in the posting of workers to Spain, making it possible to differentiate between genuine employers and mere intermediaries lacking any real structure. Companies are also obliged to ensure that their workers receive adequate training in occupational risk prevention, an obligation that extends fully to posted workers, who must receive equivalent training adapted to the specific risks of the job, regardless of where the employment relationship has been formalised.

One of the essential functions of the REA is to serve as an instrument for verifying that companies participating in a project comply with the minimum obligations required by Spanish occupational health and safety regulations. In accordance with Article 6 of Royal Decree 1109/2007, registration must be renewed every three years, provided that the company continues to comply with the legal requirements. The register is managed by the labour authorities of the AA.CC. and is maintained electronically, which provides access to information by the ITSS and social partners.

2.1.5 Notification of posting: the Spanish prior declaration tools

Spanish legislation, except for road freight transport companies that communicate via IMI,⁴⁴ requires employers who send posted workers to Spain to notify the labour authority of the Autonomous Community (or the autonomous cities of Ceuta and Melilla) where the services are to be provided. This obligation must be fulfilled before the start of the posting, regardless of its duration. However, if the posting does not exceed 8 days, only TEAs are required to report the posting (Law 45/1999, art. 5.3).

Since 27 May 2017, the transposition of Directive 2014/67/EC specified that such communication must be made by electronic means, in the manner determined by specific regulations. It was also stipulated that in agreement with the AA.CC., the Ministry of Labour would create a central electronic register of such notifications. However, despite these legal provisions, this tool has not been operational until December 2024. Since January 2025, the portal known as *Ley 45 Portal* has been active and operational. This is a unique web application that allows companies to electronically notify the posting of workers to Spain, in compliance with Law 45/1999. The national register lacks an *ad hoc* regulatory framework, so the reference to regional registers has not been modified, and they remain opened, although data is communicated between them. All the AA.CC., except Cataluña, seem to have accepted the forthcoming replacement of their regional register by the central one.

The central register currently operates on a single portal where, once the company has registered with a digital certificate or username and password, it can access the portal, select the region where the services will be provided and make the notification. If services are to be provided in several regions, notifications must be submitted in each of them. It should be noted that Article 5.1 of Law 45/1999 imposes the obligation to notify the posting prior to the start of the activity, communicating it to the competent labour authority of the territory where the services are to be provided. Thus, in accordance with Article 5.2 of Law 45/1999 (amended in 2017 by Article 9 of Directive 2014/67/EU) and the evidence gathered throughout this investigation, the information requested by the application is as follows:

- The identification of the declarant (company and/or representative) posting the worker.
- VAT identification number, company name and sector of activity.
- Tax address and contact details of the company and/or its representative.

⁴⁴ In the case of drivers posted to Spain, the obligation to notify the autonomous communities of the posting shall not apply (Art. 5 Law 45/1999). However, the operators must notify the posting before it begins, using the public interface connected to the IMI system: 'EU Portal for road transport posting declarations' See: <https://www.postingdeclaration.eu/>

- Where applicable, whether the company operates in the construction sector and/or whether it is a TEA.
- Contact details in Spain⁴⁵.
- Destination details (in the case of a subcontracting chain, the name of the main company must be indicated, in addition to the workplace where the services are provided).
- Personal and professional details (job position) of the posted workers.
- Details of the posting: 1) type of services to be provided in Spain, 2) type of posting (subcontracting, intra-company-intra-group or through a TEA), 3) start and end dates of the service provision and 4) option to extend the duration beyond 12 months.⁴⁶

We hope that this unified notification tool will enable statistical monitoring of posting, as required by EU regulations, and facilitate informed decision-making. It is also undoubtedly a tool that will allow for the monitoring of postings by the ITSS itself, even providing the identification of the recently introduced long-term posting. However, it is important to remember that in November 2024, the EC presented a proposal for a Regulation to create a single digital declaration portal (e-declaration) to reduce the administrative burden involved in the posting of workers. The aim of the proposal is to provide a public electronic interface connected to the IMI system for the notification of posting, as has already been done in the road transport sector.⁴⁷ It therefore remains to be seen whether the central register recently set up in Spain will be replaced in the future by the so-called e-declaration.

The transposition of the Enforcement Directive clarified the necessary documentation that the company in Spain must provide to the ITSS. Logically, the ITSS may require the employer to go to its offices to submit any documentation it deems appropriate. However, the following documentation must be available at the workplace, either physically on paper or in electronic format, for the duration of the posting of workers (always translated into Spanish or the co-official languages of the Autonomous Communities where the services are to be provided):⁴⁸

- Employment contracts of the posted workers or equivalent document.⁴⁹
- Wage receipts, payslips and proof of payment.
- Working hours (start and end), as already required for any worker in a Spanish company.
- Work/residence permits in the country of origin for foreign posted workers.

Once the posting has taken place, the ITSS may require the documents listed above to be provided. The Spanish transposition rule does not expressly mention the A1 certificate proving insurance in the State of origin of the posting, although it could also be expressly requested by the ITSS.

The Posting of Workers Directives do not regulate the information obligations incumbent on employers vis-à-vis posted workers. Such obligations are instead governed by Directive (EU) 2019/1152, which aims

45 In accordance with Article 5.2 g of Law 45/1999, the company must provide the identification and contact details of a natural or legal person present in Spain who is designated by the company as its representative to liaise with the competent Spanish authorities and to send and receive documents or notifications, if necessary. We understand that this person also acts on behalf of the posted company in the procedures for informing and consulting workers and in negotiations affecting those posted to Spain. However, it should be clarified that, according to Article 9.1.f) of Directive 2014/67/EU, it is not necessary for that person to be present in the host Member State, but rather that they must be available "upon reasonable and justified request."

46 In this case, the provisions of Article 3.8 of Law 45/1999 must be complied with, and both the working conditions provided for by Spanish labour legislation in Article 3.1 of Law 45/1999 and the other working conditions provided for therein must be applied, with the exception of the following matters: a) the procedures, formalities and conditions for the conclusion and termination of the employment contract, including non-competition clauses; b) supplementary pension schemes.

47 Proposal for a Regulation of the European Parliament and of the Council on a public interface connected to the Internal Market Information System for the declaration of the Posting of workers and amending Regulation (EU) No 1024/2012 {SWD (2024) 258 final} Brussels, 13.11.2024 COM (2024) 531 final 2024/0301 (COD)

48 Art. 6 of Law 45/1999

49 The written declaration by the employer containing all the information required by Royal Decree 1659/1998 (Articles 2, 3 and 5) is considered as such: Available at: <https://www.boe.es/eli/es/rd/1998/07/24/1659>

to enhance transparency and predictability in working conditions⁵⁰. Articles 6 and 7 of the Directive impose new elements to be communicated in writing in the event of posting. These conditions are added to the information already required by current national legislation, which must be provided in the event of posting abroad – not necessarily intra-European mobility – exceeding four weeks⁵¹. This Directive requires the employer to provide additional information, among many other things, on the country or countries of destination of the posting and on the additional compensation to which the posted worker may be entitled under the legislation of the State of destination; the existence of specific compensation for posting and the reimbursement of travel, accommodation and subsistence expenses; as well as the official website where the applicable regulations in the Member State of destination can be consulted and the identification of the administration to which contributions are made and which provides insurance coverage.

Furthermore, as required by Directive 2014/67/EU (Art. 5.2), Spain is obliged to maintain a single national website containing information on the working and employment conditions applicable to posted workers. The aim is to provide posted companies with an accessible point of reference with information that is clear, transparent, comprehensive and easily accessible. It should be noted that the information obligations are not limited to the website, as the law establishes that the labour authority of the territory where the services are to be provided (in the case of Spain, the AA.CC.) must provide information on working conditions (Law 45/1999, Art. 7). Based on an analysis of the official Spanish website between September and December 2025, we can say that it has improved. The website provides information in Spanish, English, French, German, Portuguese, Italian, Romanian, Polish and Bulgarian on the legislation and working conditions applicable to comply with the provisions of Spanish labour and social security legislation and other legislation relating to the Posting of workers⁵². In particular, it provides information on:

- The regulations applicable in Spain when workers are posted in the context of transnational service provision, as well as information on the working conditions of posted workers, long-term postings, the competent institutions, notification of the posting, infringements and penalties, and jurisdiction, among other matters.
- The contact details of the regional labour authorities for information on working conditions and notification of posting of workers.
- The rules applicable to the posting of workers by companies established in Spain (working conditions, infringements and penalties, jurisdiction and provisions applicable to the activity of Spanish TEAs).
- The link to the social security website that sets out the obligations in this area and provides information on the competent authority in relation to the A1 certificate.
- The link to the European Commission website with information on the posting of workers and access to the Commission's guidance document published on 25 September to help workers, employers and national authorities understand and apply the rules contained in Directive 96/71/EC, Directive 2014/67/EU and Directive (EU) 2018/957.⁵³

Spain's official national website also includes links to existing websites and other contact points, particularly those of the social partners. It also provides access to sources of collective agreements (REGCON)⁵⁴ and arbitration awards applicable to workers in the process of being posted. It should be noted that, although

⁵⁰ Spain has not yet published a specific national law that fully and definitively transposes this regulation. In February 2024, the Council of Ministers approved a draft bill, but it has not yet been passed. In 2025, the government notified the EC of partial progress in transposition, but the EC considered these measures to be insufficient and, in view of the failure to meet the EU deadline, proceeded to bring the case before the CJEU for infringement of EU law. As of December 2025, the legislative process is still ongoing and has not been completed.

⁵¹ Article 3 of Royal Decree 1659/1998 incorporates the provisions of Directive 91/533/EEC. In the case of international postings, it requires going beyond the ordinary information required for all workers and set out in Article 2 of this Regulation. In these cases, the employer must also provide information on: the duration of the work to be performed abroad, the currency in which the salary will be paid, remuneration in cash or in kind, such as allowances, compensation for expenses or travel expenses and benefits linked to the provision of services abroad, as well as the conditions for the repatriation of the worker.

⁵² https://www.mites.gob.es/es/sec_trabajo/debes_saber/desplazamiento-trabajadores-eng/index.htm

⁵³ <https://op.europa.eu/en/publication-detail/-/publication/8ac7320a-170f-11ea-8c1f-01aa75ed71a1>

⁵⁴ This is a database for the registration and filing of collective agreements, collective bargaining agreements and equality plans in Spain (REGCON): <https://expinterweb.mites.gob.es/reacon/pub/consultaPublicaEstatat>

instructions and even a search example are provided, consulting collective agreements in the database set up for this purpose is not easily accessible for foreign employers, mainly because it is only available in Spanish, Catalan, Basque, Galician and Valencian. In any case, it is a useful tool that appears to comply with the requirements of Directive 2014/67/EU.

However, regarding the duration of the posting, there is no clear information on the Spanish website on how to submit a reasoned notification to delay the consideration of the posting as long-term after 12 months. Furthermore, the official website on the posting of workers does not provide specific information on the application of additional or different conditions once the posting is considered long-term. What it does provide is the calculation of the duration over a period of one year (including replacements), but without elaborating on the regulatory treatment of possible long-term situations. Unfortunately, as with other aspects related to the posting of workers to or from Spain, there are no public data or official statistics available on the number of reasoned notifications submitted or on the number of companies that have notified the extension of postings beyond 12 months. We also believe that there is no systematic monitoring of compliance with this provision in Spain, although this may not be the case in practice, as we will see in chapter 4, since most postings to our territory have an average duration of less than 4 months.

2.2 Social security for posted workers

The Coordination Regulations are rules of international public law based on the free movement of workers that make it possible to identify the applicable national social security legislation (Regulations (EC) No 883/2004 and 987/2009, an updated overview of these Regulations at Carrascosa, 2025 c: 367).

For posting, there is an *ad hoc* conflict rule that temporarily exempts the application of the general rule (or the law of the place of employment, i.e. the *lex loci laboris*) and allows the social security legislation of the State of origin to continue to apply if certain conditions are met, as envisaged in Article 12 of the Basic Regulation EC/883/2004 (BR). In addition, the rules relating to persons who regularly pursue alternative or successive activities in two or more Member States (Art. 13 of the BR) could be applied more to posted workers. Both rules are intended to avoid the negative consequences of excessive fragmentation of social security contributions in different Member States. They also aim to promote the free provision of services and avoid administrative complications, thereby promoting the internal market. In short, it is a solution that is in line with the interests of companies, workers and social security administrations (Carrascosa and Molina 2023, 78). The option of maintaining the application of the law of origin is common to all international social security legislation. This is the case, for example, in the bilateral social security agreements signed by Spain, which provide for temporary periods of non-application of the *lex loci laboris*, such as those in the Regulation. This option, in the context of merely considering the differences in living standards between Member States and the different social security systems, could generate a competitive advantage for companies with less demanding social security systems, on the understanding that it even encourages social dumping⁵⁵ as they enjoy lower social security costs. For this reason, in the context of Article 12, this possibility is subject to significant conditions.

The aim of the coordination regulations is to protect workers who fall within their scope, but unlike in the field of employment, it is not easy to identify the most protective solution. The effects of being insured under a national social security law may vary in the short or long term, for example, years later, when a

55 Although there is no single definition of social dumping, here we refer to it as "downward pressure on the working and social security conditions of workers in the destination country due to competition from companies that post workers with fewer labour rights, especially in terms of wages, on which they also pay lower contributions" under less stringent social security legislation (Carrascosa, 2019: 39). It seems that social dumping can also arise from legal and non-abusive posting under EU law. The boundary between legal and abusive posting should mark the line between fair competition within the internal market and unfair competition (Maslaukite, 2014). The European Parliament, on its part, assumes a concept of social dumping associated with controversial practices in the context of *posting*: "although there is no legally recognised and universally shared definition of social dumping, the concept covers a wide range of intentionally abusive practices and the circumvention of existing European and national legislation (including universally applicable laws and collective agreements), which allow unfair competition to develop by illegally minimising labour costs and lead to violations of workers' rights and their exploitation..." (Maslaukite, 2014). European Parliament report of 14 September 2016 https://www.europarl.europa.eu/doceo/document/A-8-2016-0255_EN.html

retirement pension is claimed and must be calculated *pro rata temporis* under the coordination regulations (Carrascosa, 2019: 41). However, it seems clear that no worker is interested in having their contribution history divided into short periods in different States and having to resort to the Coordination Regulations every time they need a benefit. Furthermore, constant changes in the application of the *lex loci laboris* can lead to administrative and business complications and may even be considered an obstacle to the free movement of EU workers and the freedom to provide services for employers (Verschuere, 2020: 486). In this area of social security, there is no private conflict between employers and workers, as the national social security administrations provide conflicting interests that may defend insurance under their own national rules and the collection of contributions. Furthermore, as in public law, it is not possible to receive foreign social security law in a court (the *forum*), i.e. the national courts of the host or home Member State cannot apply foreign social security legislation or impose obligations on the social security administrations of other Member States, either from the point of view of affiliation-contribution or from the point of view of benefits (Carrascosa, 2004: 112). This impossibility requires loyal cooperation between national administrations in the event of a dispute or controversy in order to ensure legal certainty and maintain the uniqueness of the applicable social security legislation.

2.2.1 The Coordination Regulations

The rule for determining the national social security law applicable to a posted worker is mainly found in Article 12 of the BR, although we have already said that sometimes they could be covered by the rules laid down in Article 13 of the BR. In any case, *ad hoc* agreements between national institutions can always be used to determine the national law applicable to the posted worker, always in their favour (Article 16 of the BR). The scope and procedure for applying these articles are set out in Regulation (EC) No 987/2009.

There is an additional set of instruments that have significant interpretative value for these Regulations and, although they have no legal effect, they should also be taken into account.⁵⁶ The main instruments to which we refer are Decisions A1 and A2 and Recommendation A1 adopted by the Administrative Commission for the Coordination of Social Security Systems (CACSS) and the Practical Guide on Applicable Social Security Legislation, also agreed within this Administrative Commission, which does not reflect the opinion of the EC and is currently undergoing a lengthy process of updating.

The coordination regulations apply to posted workers (employed or self-employed), nationals of EU Member States, the European Economic Area and Switzerland⁵⁷ and their family members and dependants, regardless of their nationality. Without changing their subjective scope of application, they may also indirectly apply to third-country nationals legally residing in a Member State when they are in a situation of intra-EU mobility (even though they do not have the right to free movement) or transnationality in accordance with Regulation (EC) No 1231/2010.⁵⁸ The posting rules in the Regulation apply to temporary postings not necessarily linked to the provision of services, such as mere business trips⁵⁹. There are no specific conflict rules within its framework for teleworking or virtual work, where the application of the general *lex loci laboris* rule is accepted, although it raises many questions, especially in relation to the expected duration of the posting promoted by the employee and accepted by the company, regardless of any provision of services⁶⁰.

Pursuant to Articles 12, 13 and 16 of the BR, as exceptions to *the lex loci laboris*, in order to prove that the posted worker is insured under the social security system of a single competent Member State, this

⁵⁶ In this regard, see the judgments of the CJEU in Case C-98/80 *Romano*, Case C-102/91 *Knoch* and Case C-202/97 *FTS*.

⁵⁷ They also apply to refugees and stateless persons legally residing in a Member State.

⁵⁸ Previously, see Regulation (EC) No 859/2003, which allowed the regulations previously in effect (Regulation EEC/1408/71 and Regulation EEC/574/72) to be applied to this group of workers from June 2003 onwards.

⁵⁹ According to the agreement reached by the Commission, the European Parliament and the Council in 2019 to amend the Regulations, "business travel" could be defined as "temporary, short-term activity organised at short notice, or other temporary activity related to the employer's commercial interests and not involving the provision of services or the delivery of goods, such as attending business meetings, attending conferences and seminars, negotiating commercial agreements, exploring business opportunities or attending training courses: <https://data.consilium.europa.eu/doc/document/ST-7698-2019-ADD-1-REV-1/en/pdf>

⁶⁰ See Strban, G; Carrascosa, D; Schoukens, P. & Vukorepa I. (2020: 38) for more information on these questions.

administration issues a PD A1 at the request of the employer or the worker himself, which is not a constitutive document⁶¹ and which may be issued retroactively⁶². Contributions continue to be paid to the social security system of the country of origin, which must provide or pay for coverage and benefits, for example, in the case of healthcare received in the host State. The issuing administration must collect all the information relevant to the issuance of the PD A1, as it is obliged to be able to verify any information at the request of the institutions of the host Member State, which is bound by this certificate⁶³.

In the event of disagreement, it is necessary to initiate a dialogue procedure between the national institutions involved on the validity or accuracy of the facts underlying the issue of the PD A1, which may lead to conciliation before the Administrative Commission⁶⁴. However, the CJEU has accepted that, in cases of duly proven fraud, under certain conditions, including the prompt initiation of the aforementioned dialogue and conciliation procedure, these PDs A1 may be disregarded by the courts of the receiving Member State, generally in the context of criminal proceedings⁶⁵. This exception to the binding nature of PDs A1, only in relation to social security obligations, does not in any way refer to a change in the applicable social security legislation, as long as the issuing institution does not withdraw or invalidate the A1 certificate issued.

Table 3. European Social Security and legislation applicable to the posting of workers

| SITUATION | EU LEGISLATION |
|---|---|
| Posting of workers in the framework of the provision of services | Regulation (EC) No 883/2004 Art. 12.1; Regulation (EC) No 987/2009 Art. 14.1 and 2 |
| Posting of self-employed workers | Regulation (EC) No 883/2004 Art. 12.2; Regulation (EC) No 987/2009 Art. 14.1 to 4 |
| Workers normally pursuing their activity in two or more Member States | Regulation (EC) No 883/2004 Art. 13 Regulation (EC) No 987/2004 Art. 14. 5 to 11 |
| Agreements between social security institutions | Regulation (EC) No 883/2004 Art. 16 |
| Application to TCNs legally residing in a regular administrative situation | Regulation (EC) No 1231/2010 |

Since December 2016, there has been a proposal from the European Commission to amend the coordination regulations⁶⁶, which affects the rules on the posting of workers and tightens the requirements for the issuance of an A1 certificate under Art. 12. Some provisions of the aforementioned Decisions and Recommendations of the Administrative Commission have been transferred to the text of the Regulations to give them legal effect, in some cases tightening their provisions. In addition, for example, there is a ban on linking the posting of self-employed or freelance workers⁶⁷.

This reform project has not yet been approved. Although a provisional agreement was reached between the European Parliament, the Council and the Commission in March 2019⁶⁸, the necessary majorities for its

61 See the CJEU judgment of 16 November 2023 in case *Zaklad C-422/22* ECLI:EU:C: 2023:869, paragraph 48.

62 See CJEU judgment of 6 September 2018, *Alpenrind* case C-527/18, regarding transfers, allowing retroactive issuance even when the transfer has ended.

63 See Recommendation No. A1 of the Administrative Commission, OJEU 29 May 2018 and Regulation 987/2009, Art. 5.1, 2 and 3.

64 See Regulation 987/2009, Art. 5 and CACSS Decision No. A1 OJEU C-106, 24-4-10.

65 In particular, see the judgments in *Altun* C-359/16, *Vueling* C-370/17 and C-371/18, and *Bouygues travaux publics* and others C-17/19.

66 COM (2016) 128 final

67 Negotiations are now focusing on issues such as periods of prior affiliation in the home state in order to be posted, clarification of the effects of possible interruptions to the posting, their legal consequences on the maintenance of the social security law of origin, strengthening cooperation between administrations in the event of disagreement and reducing the timeframes for dialogue and mediation. For more details on the content of this reform, see (Carrascosa 2019c: 59).

68 <https://data.consilium.europa.eu/doc/document/ST-7698-2019-ADD-1-REV-1/en/pdf>

approval were not obtained. The same happened with a new approach in December 2021⁶⁹, but in the end it did not achieve the necessary consensus either, as has been the case on subsequent occasions, because, at the time of writing, the reform project has not been abandoned and continues to be debated by the various presidencies.

2.2.2 Social security and posting rules (Art. 12 RB)

There is a special *ad hoc* conflict rule for the posting of workers that temporarily exempts the application of the *lex loci laboris*, or law of the place of work (general rule). This conflict rule allows the social security legislation of the State of origin where the company is established to continue to apply temporarily (24 months). As confirmed by the CJEU, the objective of this special rule is to promote the development of the internal market, free movement and the free provision of services, preventing the fragmentation of workers' insurance careers and avoiding administrative complications⁷⁰. In order to prevent abuse and social dumping, the application of this special conflict rule is subject to increasingly strict requirements, which have been interpreted restrictively by the CJEU⁷¹ so that the body issuing the PD A1 in accordance with Article 12 must verify:

- a) The existence of a **direct employment** relationship that must be maintained throughout the posting. This direct relationship is broken when there is a so-called “double posting,” i.e. when the company receiving the posted workers makes said workers available to another company located in the same or another Member State, or even in a third country.
- b) **Prior insurance** in the appropriate social security system. In fact, it was agreed in a Decision of the Administrative Commission that the posted person must be subject to that legislation for at least one month immediately prior to taking up the position covered by the posting,⁷² although not necessarily as an employee of the company posting them.⁷³ This is because recruitment for the purposes of posting is possible.⁷⁴
- c) The posting company must habitually carry out **significant activities** in the State of origin where it is established beyond mere internal management⁷⁵, i.e. activities with the sole purpose of ensuring the internal or administrative functioning of the company. There are different criteria for monitoring this requirement, which ultimately ensure that the posting company is not a letterbox company⁷⁶. With regard to the application of this requirement to TEAs, the CJEU, with the aim of preventing distortions of competition in favour of this type of company, clarified in 2021 (*Team Power Europe* case) that TEAs, in addition to selecting and recruiting workers for posting in the country of origin, must also carry out the effective posting of workers in that same State of establishment⁷⁷.
- d) The **foreseeable duration of the posting**, which may not exceed 24 months. If the posting lasts longer than 24 months or is expected to exceed that duration, the non-application of the law of the place of work can only be achieved through specific agreements between social security administrations (Art. 16). The 24-month threshold does not mean that longer postings are not possible, but rather that, unless otherwise agreed between institutions, posted workers will be covered by the social security system of

⁶⁹ See <https://data.consilium.europa.eu/doc/document/ST-15068-2021-ADD-1/en/pdf>

⁷⁰ See CJEU judgments *Manpower* C-35/70; *Plum* C-404/98; *FTS* C-202/97 and sections 2 and 3 of the Explanatory Memorandum to Decision No A2 of the CACSS. See also *European Commission v Kingdom of Belgium* C-356/15, ECLI:EU:C:2018:555.

⁷¹ *Carrascosa* (2019a) and *Verschueren* (2020).

⁷² See point 1.3 of Decision No A2 of the Administrative Commission of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 (2010/C 106/02).

⁷³ See CJEU judgment, *Walltopia* C-541/17

⁷⁴ See Article 14(1) of Regulation 987/2009

⁷⁵ See Regulation 987/2009, Article 14(2) and point 1.4 of Decision No A2 of the Administrative Commission (2010/C 106/02)

⁷⁶ Some criteria to be assessed, according to a non-exhaustive list accepted by case law, are the place of the company's registered office and its administration, the number of administrative staff working in the Member State of establishment and in the other Member State, the place where the posted workers are recruited and where most of the contracts with customers are concluded, the law applicable to the employment contracts concluded by the company with its workers and with its customers, as well as the turnover achieved during a sufficiently significant period in each Member State concerned (see paragraphs 42 and 43 of the CJEU judgment, *FTS* C-202/97, EU:C:2000:75.

⁷⁷ See CJEU judgment of 3 June 2021, *Team Power Europe* C-784/19 ECLI:EU:C:2021:427

the receiving country, the *lex loci laboris*. These agreements between the competent administrations⁷⁸, which usually have a maximum duration of 5 years, can only be made for the benefit of the worker⁷⁹ on the understanding that the worker may wish to maintain his insurance career in the Member State of origin, without brief interruptions, as these would hinder his subsequent access to benefits. With regard to the calculation of the 24-month period, the interpretation of CACSS Decision No. A2 must be taken into account. The calculation of the duration is not interrupted by holidays, illness, training or other brief interruptions. When the posting is to the same State, only one posting is counted, even if it involves the provision of services to two or more companies. If the worker is posted to another State, a new posting period begins. Once the 24 months have elapsed, the worker cannot be posted to the same company located in the same State without *the lex loci laboris* being applied. However, a new PD A1 would only be issued after 2 months, which would allow the time elapsed to be reset to zero.

- e) The posted worker **must not be sent to replace another worker who was previously posted**. This is to avoid a rotational system of postings to the host company. This prohibition on replacement affects posting chains regardless of whether the new posted worker comes from the same or a different company. Therefore, it seems that the focus should be on the position to be filled. It is therefore the posting company's obligation to know who has previously occupied the position in order to prevent the A1 certificate from being invalidated⁸⁰.

The elements for assessing the issuance and validity of the PD A1 appear to lie mainly with the State of origin, which is the one that decides on the matter⁸¹. Currently, PDs A1 issued under Article 12 are communicated to the receiving country through the *Electronic Exchange of Social Security Information* (EESSI)⁸², in accordance with the Implementing Regulation (Art. 15). Unfortunately, this communication has only been used, at best, for statistical purposes, although some States such as Belgium and France have created databases to monitor postings within their territory. PDs A1 are binding on the social security administration of the State of destination and its courts, and in cases of fraud, there is a legal route for criminal courts to disregard, not withdraw or annul, foreign PDs A1 and sanction the companies involved (on the requirements associated with the so-called Altun doctrine, see Carrascosa & Molina, 2023; Carrascosa, 2025 c).

Since the 1980s, coordination regulations have also included self-employed or autonomous workers who temporarily carry out a similar activity⁸³ in another Member State. In this case, it is the workers themselves who must have maintained a significant self-employed activity in their home State prior to the posting and have been insured under that social security system for at least two months prior to the posting⁸⁴. In addition, the self-employed person must maintain an organisational infrastructure in the Member State of origin for the exercise of their activity, meeting the necessary requirements to be able to continue it on their return. The planned duration of the task to be carried out in another Member State may not exceed 24 months. In this case, the replacement or concatenation of destinations is not prohibited, so that they may replace another person previously posted, whether employed or self-employed.

78 In the case of Spain, individual agreements are managed by the TGSS, while collective agreements for certain groups of workers are approved by another department of the Ministry of Inclusion, Social Security and Migration.

79 See the CJEU judgment in the *Brusse* case C-101/83 ECLI:EU:C:1984:187

80 See CJEU judgment of 6 September 2018, *Alpenrind* case C-527/18; analysed in this regard by Carrascosa (2019: 54).

81 Emphasising that the issuing State lacks the incentives and capacity to monitor compliance with the requirements, we understand that without requiring the collaboration of other institutions via IML, see Rennuy (2020). Defending the current regulatory situation, improving certain aspects, considering that only a national institution, the issuing institution and the courts of that same State should be competent to control PDs A1 in order to preserve the uniqueness of the applicable legislation, see (Carrascosa and Molina, 2023).

82 This is the computer system that has been implemented for electronic exchange between the social security institutions of the Member States after many vicissitudes. See in this regard: <https://ec.europa.eu/social/main.jsp?catId=1544&langId=en>

83 The similarity refers to the nature of the activity itself, regardless of whether it means that, for social security purposes, they are considered employed or self-employed in the State of employment (CJEU judgment *Banks* C-178/97).

84 This is expressly stated in CACSS Decision No. A2, point 2.

2.2.3 Social security and work in two or more countries (Art. 13 RB)

In addition to the rules on posting, Art. 13 contains another conflict rule which, in principle, is intended for employed or self-employed persons who simultaneously or alternately work in two or more Member States for one or more companies⁸⁵, but which could be used in the case of cross-border posting. Art. 13 does not impose requirements similar to those laid down in Art. 12. For example, it is not necessary for the company to carry out substantial activities in the country of origin, a requirement established to prevent letterbox companies in the event of posting workers, nor is there a time limit or a prohibition on replacing posted workers.

To apply Art. 13, the worker must carry out their activities in two or more Member States on a normal basis, i.e. habitually and regularly, without considering marginal professional activities.⁸⁶ Simultaneous activities do not pose many problems in terms of the application of Article 13, which requires regularity, as it only applies to those who "normally pursue an activity as an employed person in two or more Member States"⁸⁷. However, its application is questionable when successive activities occur in different States. In this case, travel has traditionally been associated with more unpredictable temporary activities, while Art. 13 has been linked to the performance of simultaneous or alternating activities in two or more Member States on a permanent basis, which will be repeated in the following 12 calendar months. The CACSS Practical Guide considers that Art. 13 applies to foreseeable situations involving regular work in two Member States and reserves the rules of Article 12 for situations lacking such regularity⁸⁸. Article 13 of the BR is particularly relevant for so-called "highly mobile workers", such as transport workers. It could also be relevant for seasonal workers, especially those in the agricultural sector.

For its part, the CJEU insists on the need to consider the duration of the periods of activity and the nature of the contract in each case in order to determine whether Article 13 should apply⁸⁹. In a case of successive work in several Member States with a different employment contract signed consecutively, the Court held that there was no regular work in two or more Member States, as required by Article 13, but rather in one Member State at a time⁹⁰. The problem does not lie in the type of contract, as the application of this article has also been rejected when such successive activity in different States is carried out under a single contract if those periods of activity in each of the countries exceed one year, as it is again considered that work is only carried out in one Member State at a time.⁹¹

In any case, it should be remembered that the competent institution to determine the applicable law under Article 13 is the State of residence of the worker. The procedure is complicated and requires gathering all the information on all the employers involved and all the substantial activities carried out. The State of residence must follow the procedure in Article 16 of Regulation 987/2009. First, the applicable legislation must be determined on a provisional basis and the Member States concerned (i.e. where the activity is carried out and where the companies have their registered office or place of business) must be informed. Currently, information is exchanged via EESSI. Two months later, this provisional determination of the applicable legislation will become final, unless an administration expresses a different opinion. In the event of disagreement, the institutions must attempt to reach an agreement by following the specific dialogue and

85 A person who normally pursues an activity as an employed person in two or more Member States means a person who pursues one or more different activities in two or more Member States simultaneously or alternately for the same undertaking or employer or for several undertakings or employers. (Regulation 987/2009, Art. 14.5).

86 Regulation 987/2009, Art. 14.5a. The CACSS Guide states that a marginal activity is one that is carried out for less than 5% of normal working time and for a salary that is less than 5% of the ordinary remuneration.

87 See those who work during the week in one state and on weekends in another on a continuous or regular basis. In these cases, Art. 13 would be a conflict rule "designed primarily for workers whose posting is not temporary in nature" (Carrascosa 2004: 145). This is explained in the CJEU judgment *Calle Grenzshop Andresen* C-425/93 concerning a Danish worker residing in Denmark who only works for a company based in Germany, regularly carrying out part of his activity in Denmark for several hours a week and for periods not limited to 12 months.

88 The Guide points out that "the frequency of the alternation is not important, but there must be a certain regularity in the activity. For example, a sales representative who travels year after year throughout the territory of a Member State taking orders for nine months and returns to his Member State of residence to work for the remaining three months would be carrying out his activities alternately."

89 Judgment of the CJEU of 12 July 1973, Case C-13/73 *Hakenberg*, concerning a French citizen residing in France who worked nine months in Germany and three months in France on behalf of several French companies.

90 See CJEU 4 October 2012, *Format* case C-115/11. ECLI:EU:C:2012:606i

91 See CJEU 20 May 2021, *Format* case C-879/19. ECLI:EU:C:2021:409

conciliation procedure set out in Article 6 of the implementing Regulation. In order to determine the applicable national law, the Member State of residence must consider the current personal circumstances of the worker concerned, but also the employment situation expected for the following 12 calendar months,⁹² in accordance with the following connections:

- a) Between countries of employment, priority is given to the application of the law of the place of employment where the worker also resides if a substantial part of their work is carried out there (25% of the activity or time).
- b) However, if they reside where they do not carry out a substantial part of their professional activity, the law of the place where the company has its headquarters (Art. 13.1.b of the BR) is applied, i.e. where the fundamental decisions of the company are taken and where its central administration functions are carried out.⁹³ In this case, when the worker is employed by two or more companies:⁹⁴
 - If all of them have their registered office in the same country, the social security legislation of that country shall apply.
 - If the companies are based in different countries and the worker resides in one of them, the legislation of the country where the company is based that does not coincide with the worker's place of residence shall apply.
 - The law of the worker's country of residence only prevails if it coincides with the headquarters of two or more of the employing companies.

⁹² Regulation 987/2009, Art. 14.10

⁹³ Regulation 987/2009, Art. 14.5a.

⁹⁴ Regulation 883/2004, Art. 13.1.b.ii); 13.1.b.iii) and 13.1.b). iv).

3. Intra-EU posting of workers from Spain

This chapter presents data on the volume, characteristics and impact of the posting of workers from Spain, i.e. when Spain is the Member State of origin where the company, which exercises its freedom to provide services, is established. The basic source of information for this chapter is the PDs A1 issued by the Spanish social security system, specifically by the TGSS during 2023, although reference is also made to previous periods and the trend in 2024. As already noted, when addressing the legal framework for posting of workers in relation to social security, PDs A1 can be issued for various reasons. Our study focuses on PDs A1 issued by the TGSS in accordance with Articles 12, 13 and 16 of the BR. These three articles are exceptions to the main connection, which is the law of the place of work or *lex loci laboris*.

- a) PDs A1 (Art. 12): these refer to the conflict rule for the posting of employed workers subject to significant requirements, almost always referring to the posting of workers subject to the Posting Directive. However, they may also refer to mere business trips or the posting of self-employed workers, decided by themselves and excluded from the scope of the directive.
- b) PDs A1 (Art. 13) refer to the so-called multi-State conflict rule which, when referring to the regular and successive provision of services in different Member States, could in some cases correspond to workers posted under the Posting of Workers Directive for employment purposes. However, they are also issued in large numbers to frontier workers who are excluded from that Directive. As will be seen, PDs A1 under Article 13 are issued annually by Spain and may refer to many Member States of destination, including all of them in the case of road transport. Article 13 of the BR does not impose many of the requirements of the posting rule in Article 12 of the BR, so it could be understood that issuing them is simpler. For example, the foreseeable duration of mobility is permitted to exceed 24 months. Furthermore, the company is not required to have substantial activity in the Member State where it is established, although there must be an actual employer and there is no prohibition on replacement.
- c) PDs A1 (Article 16): these cover agreements between the competent social security institutions reached in the interests of workers, except for any of the conflict rules in Title II of the BR. However, it is accepted that the purpose of these agreements is mainly to extend the duration of PD A1 posting beyond the time limits set out in Article 12 of the BR.

The **information** contained in these forms provides an analysis of the following issues:

Firstly, data is provided on the **evolution of posting over the last ten years** (2015 to 2024) and, in more detail, over the last four years, revealing certain trends. From there, focusing on the PDs A1 issued in 2023, the main characteristics of the workers and companies associated with the different types of PD A1 (Articles 12, 13 and 16) are analysed in a much more comprehensive and detailed manner than in the first report. We would particularly like to highlight the novel identification of **the number of workers** associated with the issuance of these PDs A1, and their characteristics (section 2.1 of this chapter). Thanks to the detailed information provided by the TGSS, we have been able to create what we have called a “unique identifier” for the first time. This code is associated with a series of relevant data points that identify a worker.

We also analyse the **States involved** in the issuance of these PDs A1 and their **duration**, the number of documents issued per person and the total or cumulative duration of such PDs A1 during 2023. Having managed to identify workers, it will also be possible to identify the number of PDs A1 (and of what type) each of them requested during 2023.

From the point of view of the workers affected by the different types of PD A1, the report pays special attention to the **nationality** of the workers affected by each of these documents, although we also refer to their **age and sex**. This data on nationality is related to the number of non-Spanish workers (EEA and Swiss nationals or third-country nationals) employed in Spain. The aim is to ascertain whether foreigners in the Spanish labour market are posted in higher proportions than Spanish workers themselves. The same approach is taken when studying certain economic sectors more specifically.

From the point of view of companies, we analyse, from a general perspective, the volume of PD A1 applications according to **their size**, considering their number of employees and the **economic sectors** affected by the posting. Finally, a more detailed analysis is carried out of some of the aforementioned elements in the following sectors that we consider relevant:

- a) Firstly, the **agricultural** sector, highlighting the importance of TEAs as employers of third-country nationals who are mainly posted to France.
- b) Secondly, the **construction** sector, where the posted workforce is predominantly Spanish.
- c) Thirdly, some interesting data on the **road transport** sector are analysed.

3.1 Overview and evolution of the number of posted workers

As shown in Figure 1 below, the total evolution of PDs A1 issued in the period 2015-2024 from Spain can be divided into **three distinct phases**:

- 1) **From 2010 to 2019**: there was steady growth in PDs A1 (Articles 12 and 13). The overall number of PDs A1 (including those under Article 16) issued in Spain quadrupled (from 60,800 to 252,270). In addition, significant increases of up to 50% were observed in the last five years of this period. In fact, in 2019, Spain ranked third among the States (EEA and Switzerland) that issued the most PDs A1, surpassed only by Poland and, in first place, Germany (see first *Posting.stat* Spain report). It should be noted that, specifically, in the 2018-2019 period, the growth of PDs A1 (Art. 12) and, above all, those of Art. 13 meant that both types of PDs A1 almost balanced each other in importance, although in 2019 those of Art. 12 once again predominated by a slight margin. The remaining types of PD A1, including those under Article 16, are residual, a trend that also remained constant throughout the 2010-2024 series, despite a small upturn in 2022.
- 2) **During 2020 and 2021**, due to the health crisis caused by COVID-19, there was a logical and widespread decline in mobility, although mobility related to activities considered essential remained steady. Specifically, in 2020, the volume of travel fell dramatically by more than 30% (see first *Posting.stat* Spain report). In 2020, there was also a certain balance between Articles 12 and 13, although in 2021, the issuance of PD A1 under Article 12 clearly increases again, with only ten points separating them (54% PD A1 under Article 12 and 44% PD A1 under Article 13).
- 3) **From 2022 to 2024**, the growth trend of PDs A1 continued not only recovering the 2019 issuance level but also exceeding it, with a clear predominance of those issued under Article 12, without abandoning this trend. In 2024, the last year for which we have global data, the TGSS issued 309,068 A1 certificates (Articles 12 and 13 and others, including those under Article 16), i.e. almost 57,000 additional PDs A1 (15%). The predominance of those under Article 12 is clear, with a difference of 37 points (68% are under Article 12 and only 31% are PD A1 under Article 13).

In any case, the importance of posting and its increase in Spain must be placed into perspective when contextualised, i.e. when related to the number of workers in Spain. Indeed, although in absolute terms the number of PDs A1 issued by Spain in 2023 amounted to 267,707. This amount represents only 1.24% of the active employed population for that year, which exceeded 21 million people (21.25) for the first time, always considering an active population of more than 24 million, within the framework of a total population of more than 48 million people, according to the INE's Labour Force Survey (EPA).⁹⁵ Specifically, to assess the importance of the phenomenon of posting, we can look at the number of people insured under the social security system in Spain (both employed and self-employed), which amounted to 20,733,042 people in 2023, equivalent to only 1.29% of the total, with around 1.3 PDs A1 issued for every 100 workers.⁹⁶ Although we are talking about overall figures, the breakdown by sector of activity in the final sections will

⁹⁵ See press release from the INE (National Statistics Institute) on the Labour Force Survey (EPA) for the fourth quarter of 2023, published on 26 January 2024 <https://www.ine.es/dyngs/Prensa/EPA4T23.htm>. For information on the record number of people in employment, see

⁹⁶ See TGSS affiliation data for 2023, not including civil servants insured by the main civil service mutual insurance company, MUFACE, which in 2023 amounted to 660,041 people.

allow us to show where this mobility is concentrated and the Member States of destination, in order to assess its possible impact.

Figure 1. Total number of PDs A1 issued in Spain, 2010-2024



Source: Posting of workers Reports on A1 Portable Documents issued (De Wispelaere, De Smedt & Pacolet, 2012-2025)

* 2024 data provided by the TGSS as part of the *Posting.stat 2.0* project

Let us take a closer look at Table 4 below, which breaks down the issuance of different types of PDs A1 over the last four years (2021-2024).

Table 4 . Total number of PDs A1 issued in Spain, 2021-2024

| | PD A1 2021 | PD A1 2022 | PD A1 2023 | PD A1 2024* | % Change 23-24 |
|--|-----------------------|-----------------------|-----------------------|-----------------------|----------------|
| Art. 12 To work in a single State | 114,473 (54%) | 155,728 (57%) | 172,006 (64%) | 211,209 (68%) | + 23 |
| <i>Employees</i> | 107,156 (51%) | 146,579 (54%) | 163,978 (61%) | 203,392 (66%) | |
| <i>Self-employed workers</i> | 7,317 (3%) | 9,149 (3%) | 8,028 (3%) | 7,817 (3%) | |
| Art. 13 To work in two or more States | 93,390 (44%) | 108,388 (40%) | 92,310 (34%) | 94,711 (31%) | + 3 |
| <i>Employees</i> | 91,445 (43%) | 102,339 (38%) | 87,104 (33%) | 89,482 (29%) | |
| <i>Other situations</i> | 1,945 (1%) | 6,049 (2%) | 5,206 (2%) | 5,229 (2%) | |
| Other categories | 3,666 (2%) | 6,738 (2%) | 3,391 (1%) | 3,148 (1%) | - 7 |
| TOTAL | 211,529 (100%) | 270,906 (100%) | 267,707 (100%) | 309,068 (100%) | + 15% |

Source: Posting of workers Reports on A1 Portable Documents issued (De Wispelaere, De Smedt & Pacolet, 2023-2025)

* Data for 2024 provided by the TGSS as part of the *Posting.stat 2.0* project

Firstly, as we pointed out, Table 4 clearly shows the predominance of PDsA1 issued in favour of employed workers. In fact, around 96.3% of all A1 certificates (Art. 12) issued by Spain in 2024 were for employed workers. This percentage reaches almost 94.5% for PDs A1 (Art. 13) issued in the same year.

Secondly, PDs A1 (Art. 12) grew by 23% in that period (2021-2024), compared to PDs A1 (Art. 13), which only increased by 3%, with those under Art. 12 becoming increasingly predominant. In fact, PDs A1 (Art. 13) in 2024 will be less than half of PDs A1 under Art. 12, with a difference of 37 percentage points, while in 2021, the percentage difference was 10%. The weight of the remaining PD A1 categories (including those in Art. 16) is negligible, is decreasing and has been negative in the last two years (-7%).

3.2 Number of workers affected by the different PDs A1

To determine the number of posted workers from Spain in 2023, we have constructed what we call a **single indicator** per posted worker based on the coincidence of the following data from the PD A1 databases provided by the TGSS. When all these data coincide, we consider that we have identified a worker and assign them a unique identifier, which facilitates our statistical analysis. This indicator groups together the following information or variables:

- RRRR Code associated with the social security Scheme under which the worker is insured (General Scheme or RGSS and, within this, the Special Agricultural System or the Domestic Workers System, Special Scheme for Self-Employed Workers or RETA).
- S Sex of the posted worker.
- NNN ISO 3166 numerical code of the worker's country of nationality
- CCCC NACE code for the company's activity
- PPPP Postcode of the province of origin of the posting
- YYYY Date of registration with Spanish Social Security
- XXXX Date of registration with the company, although in the case of self-employed workers, we use the date of registration with the Self-Employed Workers' Association)
- EE Age of the posted worker (which obviously changes during the calendar year)

Based on this information, the indicator is constructed in the following format: RRRR-S-NNN-CCCC-PPPP-AAAA-XXXX-EE. Thus, for example, the indicator SEA-M-218-N7820-46015-42620-45040-30 corresponds to a 30-year-old woman, registered in the Special Agricultural System (SEA), of Ecuadorian nationality (country code 218), with activity associated with a TEA (NACE code N7820), posted from postcode 46015 in the province of Valencia, with a registration date in Spain of 07/09/2016 (equivalent to 42620) and a registration date with her company of 24/04/2023 (equivalent to 45040). It is possible that two people share these data, but we consider that the number of errors due to duplicate profiles must be very low.

Based on this code, Table 5 below has been compiled, containing an **estimate of the number of persons** corresponding to the PDs A1 issued by Spain in 2023 and the ratio of PDs A1 per person, which is lower in the case of PDs A1 (Art. 13) which, as will be seen when analysing their duration, are in many cases requested for the entire calendar year.

Table 5. Number of PDs A1 issued and applicants in Spain, 2023

| | PDs A1 issued | Workers | PDs A1 per person |
|--|----------------------|----------------|--------------------------|
| Art. 12 – To work in a single State | 172,006 | 93,111 | 1.85 |
| <i>Employed workers (12.1)</i> | <i>163,978</i> | <i>88,187</i> | <i>1.86</i> |
| <i>Self-employed workers (12.2)</i> | <i>8,028</i> | <i>4,924</i> | <i>1.63</i> |
| Art. 13 – To work in two or more States | 92,310 | 77,260 | 1.19 |
| <i>Employed workers (13.1)</i> | <i>87,104</i> | <i>72,342</i> | <i>1.20</i> |
| <i>Other situations (13.2 and 13.3)</i> | <i>5,206</i> | <i>4,918</i> | <i>1.06</i> |
| Other categories | 3,391 | 3,316 | 1.02 |
| <i>Article 16 agreements</i> | <i>1,060</i> | <i>985</i> | <i>1.08</i> |
| <i>Others*</i> | <i>2,331</i> | <i>2,331</i> | <i>-</i> |
| TOTAL | 267,707 | 173,687 | 1.54 |

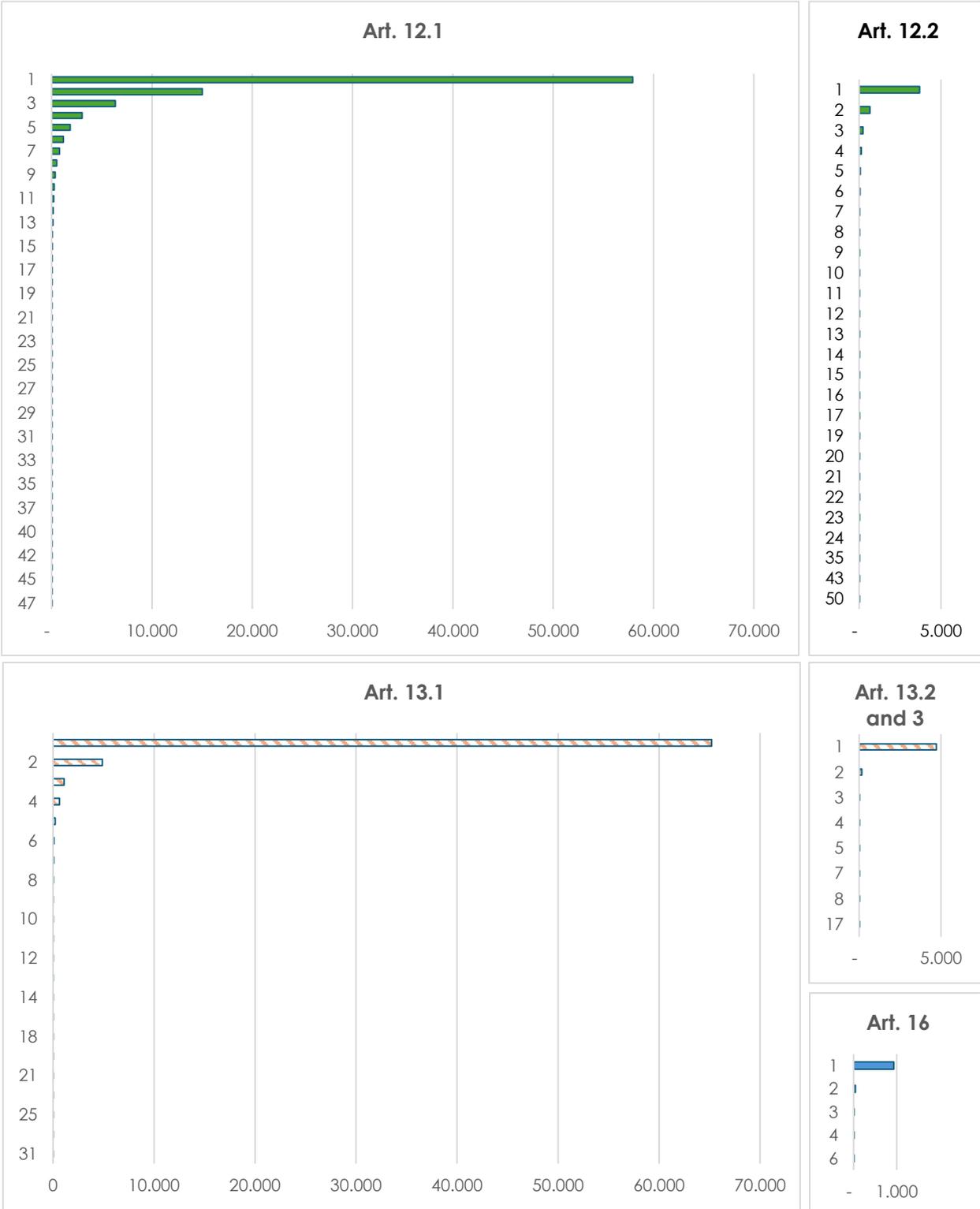
Source: (De Wispelaere, De Smedt & Pacolet, 2025) and data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project

* Data on the number of people affected not available (civil servants, seafarers, EU staff, flight crew and other exceptions other than Article 16). For the calculation of the overall ratio, the same number of people as for PD A1 has been considered.

As we can see in Figure 2 below, in 2023, both self-employed workers and freelancers mostly requested the issuance of a small number of PDs A1. In the case of PDs A1 under Article 12, in 90% of cases, three or fewer PDs A1 were requested. In the case of PD A1 art. 13.1, in 97% of cases, one or two PDs A1 were requested. In the case of PD A1 art. 13.2, 13.3 and 16, more than 95% of people requested a single PD A1. Going into detail, in the case of art. 12.1, 66% of people requested a single PD A1 (approximately 58,000 people), 17% requested two PDs A1, 16% requested between three and ten PDs A1, and only 1% of people, less than 1,000, requested more than ten PDs A1. In the case of Article 12.2, 75% requested a single PD A1 (approximately 3,700 people), 13% requested two PDs A1, 11% requested between three and ten PDs A1, and less than 1%, 43 people, requested more than 10 PDs A1. Finally, in the case of Article 13.1, 90% of people requested a single PD A1 (approximately 65,000 people), 7% requested two PDs A1, and only 3% requested three or more PDs A1 (approximately 2,250 people).

In general, it can be concluded that out of every six posted workers, four are posted only once during the year. While we can also find workers posted twice or three times, only one in six is posted more than four times. In other words, only one in six can be considered a recurrently posted worker. We will examine this in more detail when we analyse the duration of PDs A1 in the next section.

Figure 2. PDs A1 issued per person, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

3.3 Average and cumulative duration of PDs A1

Regarding the duration of the different types of PDs A1 forms, it should be noted that:

1. The maximum validity of **PDs A1 (Art. 12)** is a foreseeable duration of 24 months. However, even after this period has elapsed, the posting may continue without coverage, requiring insurance in the destination country, which can only be avoided through an agreement or PD A1 Art. 16, maintaining, in our case, the link to the Spanish social security system with the approval of the destination Member State. According to Table 6, in Spain, applications for a PD A1 (Art. 12) show that it is granted for periods much shorter than 24 months. In the case of employed workers, the average duration is 36.5 days (just over 5 weeks), which is multiplied by 2.2 for self-employed posted workers who, as already noted, are a minority and not covered by the posting directives.
2. With regard to **PDs A1 (Art. 13)**, it should be noted that this provision of the BR does not temporarily limit the possible affiliation to the social security system of the issuing State of these PDs A1. Thus, they could accompany the entire working life of a person working in two Member States simultaneously. According to Table 6, the most common case, that of **paragraph 1** relating to persons who normally pursue an activity as an employed person in two or more Member States, lasts, on average, just over half a year (193.6 days). These periods are increased by 87 and a half days in relation to the case in **paragraph 2** concerning persons who normally pursue an activity as a self-employed worker in two or more Member States, reaching an average of 281.1 days. In the few cases relating to paragraph 3 (persons who normally pursue an activity as an employee and an activity as a self-employed person in different countries), the average duration of these is 122 PDs A1 issued by Spain in 2023, as the State of pursuit of the activity as an employee shoots up, far exceeding (by 144.3 days) the one-year duration, reaching an average of 509.3 days.
3. Finally, **PDs A1 (Art. 16)** relating to agreements and extraordinary extensions of postings have an average duration of 450.3 days, exceeding one year by 85.3 days.

Table 6. Average duration of PDs A1 issued in Spain, 2023

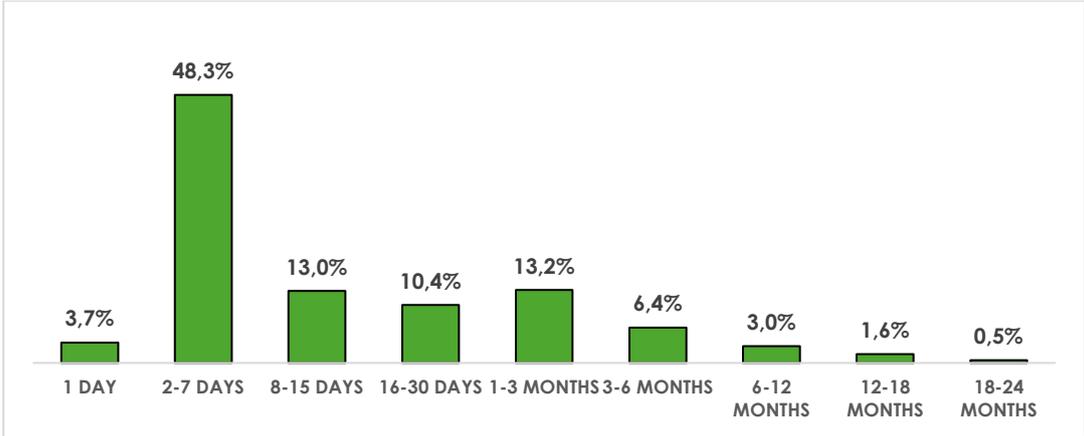
| | PD A1 | Average duration in days |
|----------------|----------------|--------------------------|
| Art. 12.1 | 165,333 | 36.5 |
| Art. 12.2 | 8,100 | 81.0 |
| Art. 12 | 173,433 | 38.6 |
| Art. 13.1 | 84,203 | 193.6 |
| Art. 13.2 | 5,104 | 281.1 |
| Art. 13.3 | 122 | 509.3 |
| Art. 13 | 89,429 | 199.0 |
| Art. 16 | 1,060 | 450.3 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project.

Apart from the average duration mentioned above, as shown in Figure 3 below, **PDs A1 (Art. 12)** are mostly issued for a duration of between two days and one week in almost half of cases (48%), and only for a period of one day (3.7%). In general, it can be said that the assignments are of short duration, with 75.4% of all those issued being for less than one month. In fact, at levels above 10% but below 14%, we find other popular temporary periods: those ranging from 8 days to a fortnight (13%); those from 16 days to a month (10.4%); and those granted for between 1 and 3 months (13.2% of all PDs A1 Art. 12).

Beyond six months, only 5% of PDs A1 (Art. 12) were requested, with a downward trend in importance as the duration granted increases: 3% between six months and one year; those lasting between one year and 18 months (1.6%), with only 0.5% of PDs A1 being granted for a period between 18 and 24 months, which, in the eyes of the PWD would already be long-term postings, which would require the application of most of the working conditions of the State of destination of the posting if they were more favourable than those established in accordance with the *lex causae* and the collective agreements applicable in the country of origin or the posted worker's own employment contract.

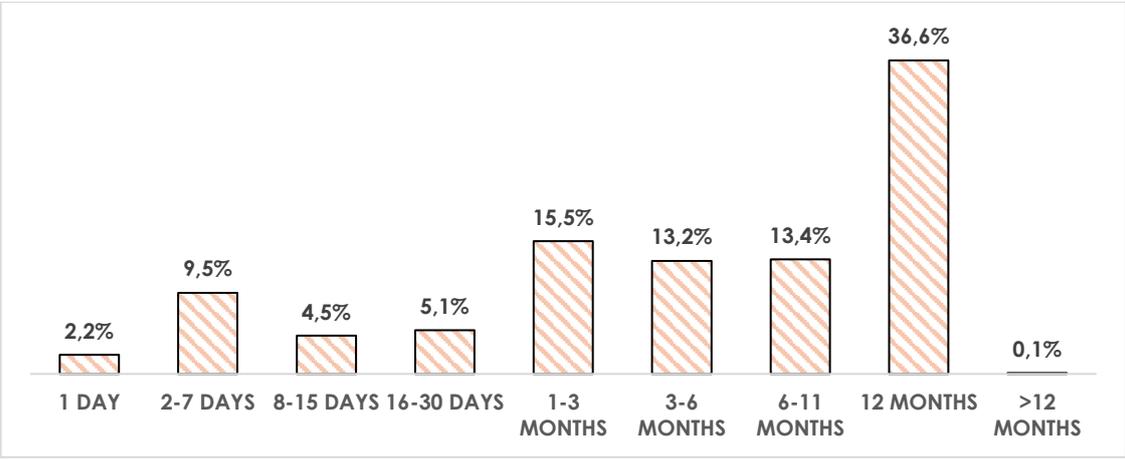
Figure 3. Duration of PDs A1 Art. 12, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

As shown in Figure 4 below, the most popular duration of PDs A1 (Art. 13) is one year, with 36.6% of them being issued for this duration. Next, exceeding 13%, we find that the most popular duration is between one and three months.

Figure 4. Duration of PDs A1 Art. 13, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

Based on the data on applicants mentioned in the previous section, we have been able to calculate the **cumulative average duration of the different types of PDs A1 per worker involved** in Table 7 below and compare them with the average duration data for PDs A1 that we had collected in Table 6. This clearly shows that the cumulative average duration is higher, almost doubling the average duration of PDs A1 (art. 12) from 38.6 to 71.9. In other words, although only one in three workers concatenate postings, this

concatenation means that, on average, the total duration of time a worker spends posted throughout the year doubles.

In the case of PDs A1 under Articles 13 and 16, the increase is much more moderate, rising from an average duration of 200 days for PDs A1 to an average cumulative duration of 230 days in the case of PDs A1 under Article 13 (an increase of 15%), and from 450 to 485 in the case of PDs A1 in Article 16 (an 8% increase). Their duration increases by around one month, with a reduction of 75 workers involved.

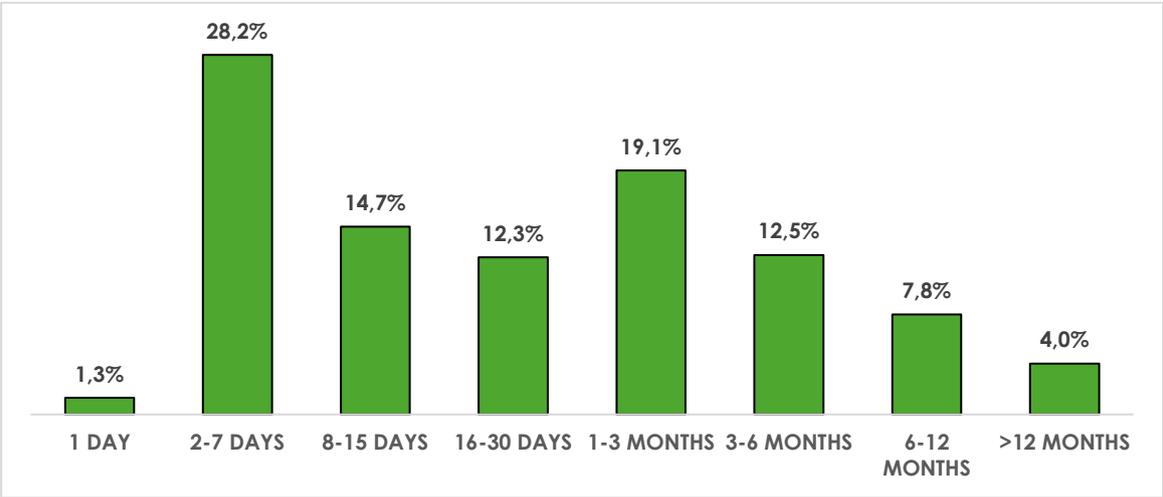
Table 7. Average cumulative duration of PDs A1 issued in Spain and per applicant, 2023

| | PD A1 | Average duration | Persons involved | Average cumulative duration |
|----------------|----------------|------------------|------------------|-----------------------------|
| Art. 12.1 | 165,333 | 36.5 | 88,187 | 68.5 |
| Art. 12.2 | 8,100 | 81.0 | 4,924 | 133.3 |
| Art. 12 | 173,433 | 38.6 | 93,111 | 71.9 |
| Art. 13.1 | 84,203 | 193.6 | 72,342 | 225.4 |
| Art. 13.2 | 5,104 | 281.1 | 4,807 | 298.4 |
| Art. 13.3 | 122 | 509.3 | 111 | 559.8 |
| Art. 13 | 89,429 | 199.0 | 77,260 | 230.4 |
| Art. 16 | 1,060 | 450.3 | 985 | 484.6 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project.

The following figures (5 and 6) show the distribution of the cumulative duration by periods, both for PDs A1 under Article 12 and those under Article 13.

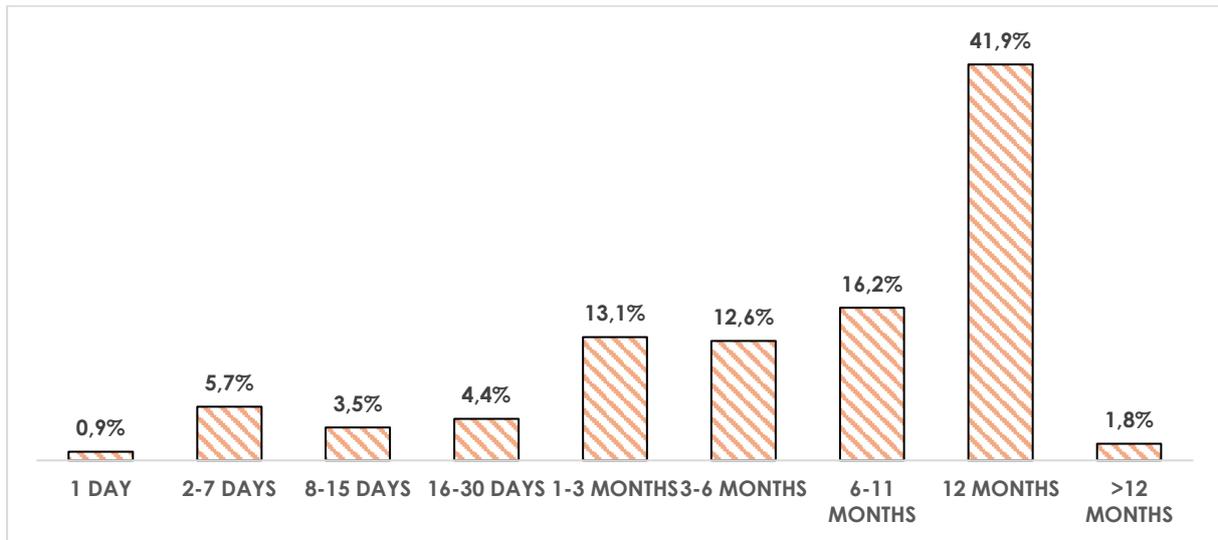
Figure 5. Cumulative duration of PD A1 art. 12 per posted worker, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

As can be seen in the figure above, in the case of PDs A1 under Article 12, the increase in the cumulative average duration is due to a higher proportion of postings lasting more than one month.

Figure 6. Cumulative duration of PDs A1 Art. 13 per person working in two or more countries, 2023



Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project

In the case of PDs A1 (art. 13), as shown in Figure 6, there is a slight increase in the cumulative duration, which seems to be due to a greater prevalence of this type of PD A1 requested for periods mainly ranging from one month to 11 months.

3.4 Member States associated with the issuance of PDs A1

In the following sections, we will identify the Member States associated with the issuance of PDs A1 by Spain. First, the Member State of destination of the posting (PD A1 Art. 12). Second, the Member States where the worker benefiting from a PD A1 (Art. 13) who resides and works in Spain will also presumably work. Finally, the Member States with which Spain has signed agreements, issuing an PD A1 (Art. 16).

3.4.1 Countries of destination for PD A1 postings (Art. 12)

Starting with PDs A1 (Art. 12), according to the map below, the main **destination countries or recipients of workers posted** by Spanish companies in 2023 were: France (27%),⁹⁷ Germany (18%)⁹⁸ and Portugal (16%).⁹⁹ These three countries, two of which are neighbours or border countries, account for 61% of all reported postings. France remains the Member State to which Spain sends the most posted workers, receiving 44,238 PDs A1 (Art. 12) in 2023.

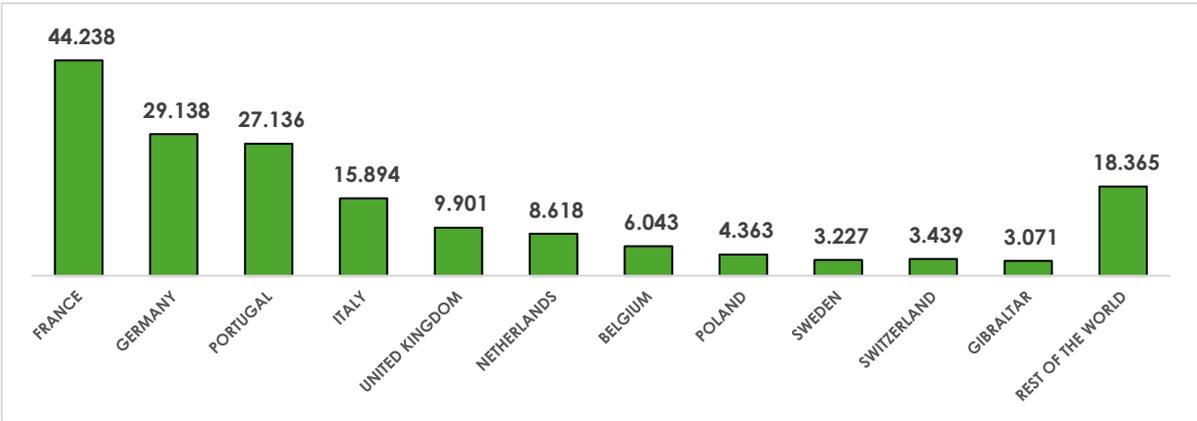
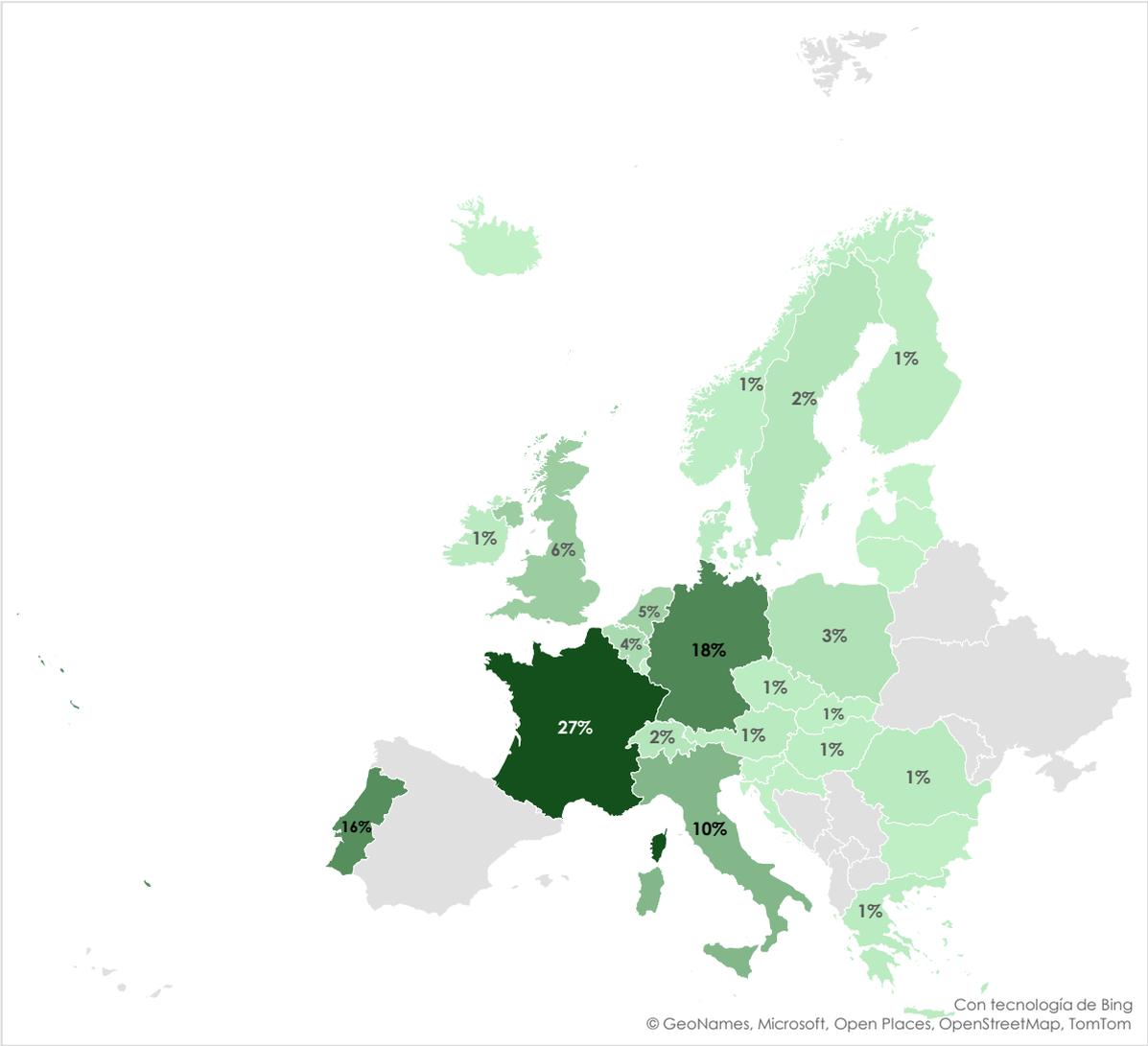
On the other hand, Italy (10%), the Netherlands (5%) and Belgium (4%) constitute the second group of countries to which Spanish companies sent the majority of workers involved in the posting process from Spain in 2023. Interestingly, the United Kingdom receives 6% of PDs A1 (Art. 12), i.e. more posted workers than the last two Member States mentioned, despite being a third country with which there is no longer free provision of services. The four countries account for 25% of all A1 certificates issued under Art. 12.1.

⁹⁷ In 2020, it reached 35%

⁹⁸ Up two points from 2020

⁹⁹ Down two points from 2020

Figure 7. Countries receiving posted workers from Spain PD A1 (Art. 12), 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

Of the remaining Member States that received between 3,000 and just over 4,000 A1 PDs (Art. 12), the following are worth mentioning: Poland (4,363), Sweden (3,227) and Switzerland (3,439). Once again, it

should be noted that Gibraltar (3,071) is next on the list, another territory with which there is no freedom to provide services.

In 2023, Spain issued 18,365 PDs A1 (Art. 12) to the remaining Member States in a very evenly distributed manner. One factor in favour of sending posted workers from Spain may be the importance of certain sectors such as construction.¹⁰⁰ Indeed, Spanish construction companies are second only to Chinese companies worldwide and are recognised as being highly competitive.¹⁰¹ The internationalisation of this sector increased after the 2008 financial crisis, not only for large construction companies, but also for medium-sized ones.¹⁰²

Although the amendment to the PWD made by Directive (EU) 2018/957 largely neutralised the potential advantage in terms of labour costs by forcing sending companies to match their wages to the higher rates established in the sectoral agreements of the destination country, it should be noted that the average labour cost per hour worked in Spain is lower than in some destination countries.¹⁰³ According to EUROSTAT (2023),¹⁰⁴ the average labour cost per hour worked in Spain in that year was €24.5. This is far below the €42.4 in France, €41.4 in Germany, €43 in the Netherlands and €47.1 in Belgium. We must also take into account social security costs and the hypothetical competitive advantage that could result from temporarily maintaining insurance under the Spanish social security system. However, given the above labour data, many Spanish companies will have to contribute to the Spanish system, considering the increased wages during the posting, in accordance with the Posting of Workers Directive. Some recent studies indicate that, although there is a competitive advantage regarding the contribution requirements of Member States such as France, the Netherlands, Slovakia and the Czech Republic, it appears that the contribution required in Spain is higher in percentage terms than in the other Member States (CEPYME, 2024: 30).¹⁰⁵

3.4.2 Member States where activity is also carried out, simultaneously or alternately, PDs A1 (Art. 13)

In PD A1 (Art. 13) cases, there is no single Member State of destination, as is the case with PD A1 (Art. 12) postings. A PD A1 (Art. 13), based on the multi-State rule, means that the worker concerned, apart from working and residing in the issuing State where they would continue to be insured (in our case, Spain), may be issued in relation to different Member States where work is also carried out simultaneously or alternately. In fact, as can be seen in Figure 8, one third of PDs A1 (Art. 13) are requested to combine or alternate work in Spain with work in other States, and approximately 1 in 7 are requested to work in almost the entire EEA and Switzerland (30 countries or more).¹⁰⁶

100 In January 2019, there were more than 83,000 companies operating in the construction sector in Spain, employing 1.27 million workers. This sector is highly fragmented, with small companies predominating. <https://www.economiadehoy.es/las-constructoras-medianas-ganan-cuota-en-el-mercado-espanol>

101 For the tenth consecutive year, the largest international construction company is Spain's ACS. https://cincodias.elpais.com/cincodias/2021/08/19/companias/1629394201_852335.html

102 See the 2019 report on the internationalization of medium-sized companies associated with ANCI (National Association of Independent Builders) <https://www.ancisa.com/wp-content/uploads/2019/07/ANCI-Actividad-Internacional.pdf>

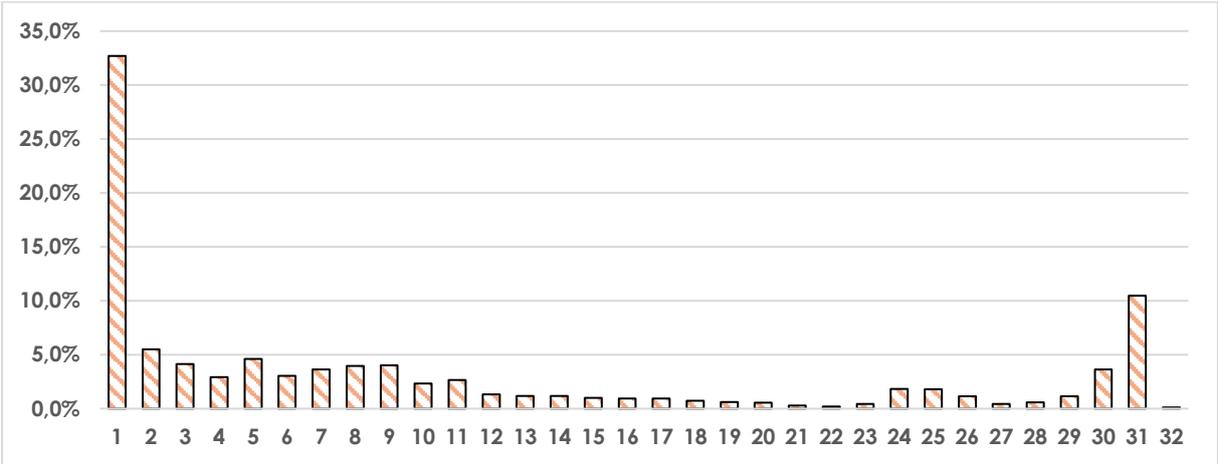
103 Considering the data for 2024, Spain ranks in the lower middle of the table https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Hourly_labour_costs

104 Eurostat (2023), Labour cost levels by NACE Rev. 2 activity, Labour cost for LCI. Available at: https://ec.europa.eu/eurostat/databrowser/view/lc_lci_lev/default/table?lang=en

105 Considering the same 35 European countries, Spain has the fifth highest total social security contributions (employee + employer). There is also a different composition from the average: in simple terms, employee contributions in Spain are half the average of the countries considered, while employer contributions are almost double. Total contributions are only higher in France (62%), the Netherlands (51.2%), Slovakia (48.6%) and the Czech Republic (44.8%). In six countries, total contributions are half or less than in Spain: Denmark (7.7%), Switzerland (11.7%), Iceland (12.5%), Ireland (15.1%), Cyprus (16.6%) and Malta (20%). https://cepyme.es/storage/2025/01/INFORME-CRECIMIENTO-EMPRESARIAL_2024_.pdf

106 Among the possible destination countries for a Spanish PD A1 (Art. 13) is information regarding the United Kingdom and Gibraltar, even though they are not part of the EU or the EEA, which means that, excluding Spain, the number of destination countries could reach 32.

Figure 8 . Number of destination countries of PDs A1 (Art. 13), 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

If we look at the following table, PDs A1 Art. 13, issued by the TGSS to combine work in Spain with work in another Member State, we can see that two-thirds of these PDs A1 are requested to work simultaneously or alternately in France and just over 13% to work in this way in Portugal, with the other two notable countries being Germany (almost 6%) and Italy (4.6%).

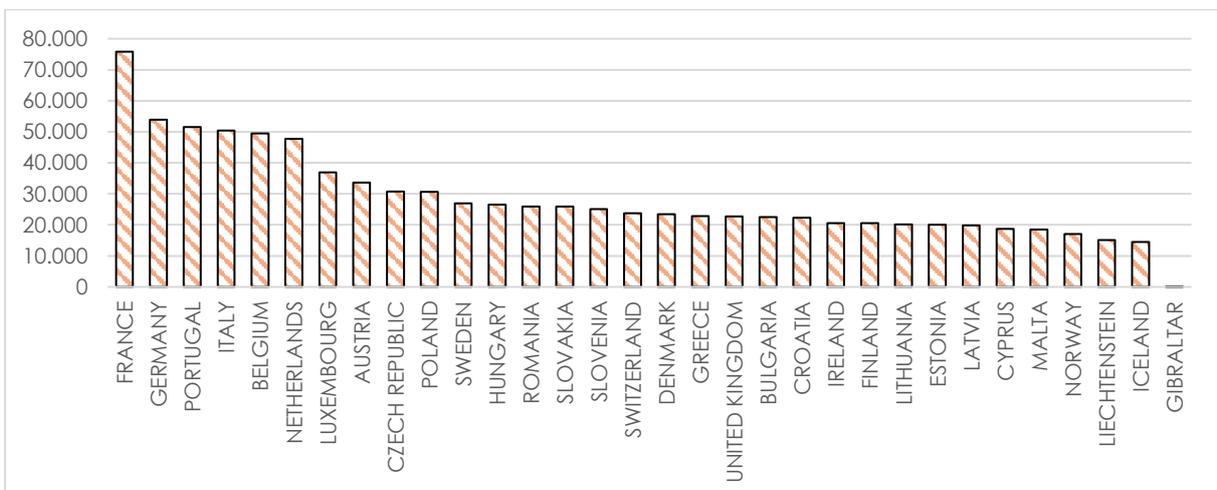
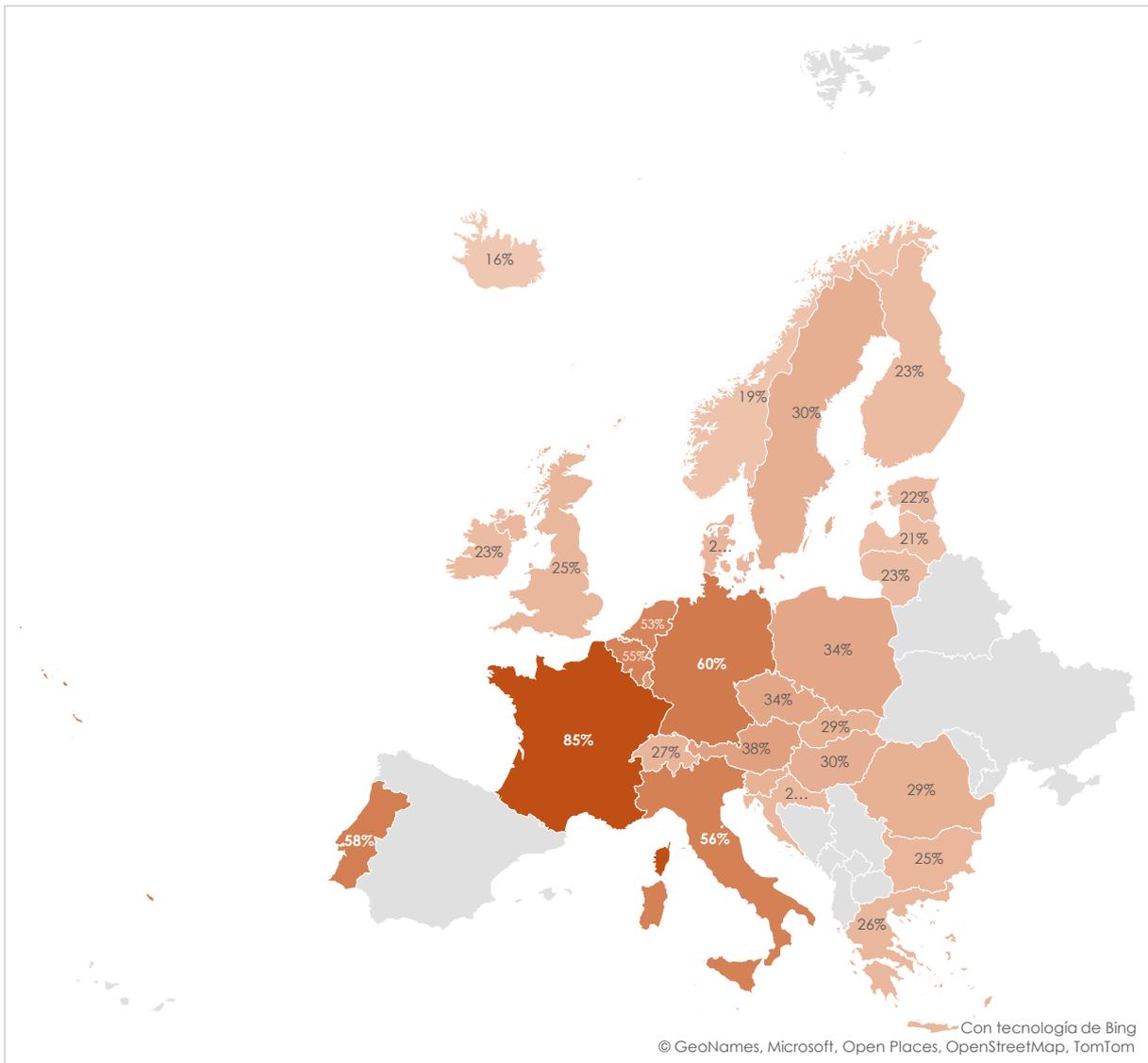
Table 8. Country of destination when working simultaneously in only one Member State

| Member State | PD A1 art. 13 | % |
|---------------------|---------------|--------------|
| FRANCE | 18,621 | 63.7 |
| PORTUGAL | 3,904 | 13.4 |
| GERMANY | 1,689 | 5.8 |
| ITALY | 1,353 | 4.6 |
| UNITED KINGDOM | 597 | 2.0 |
| BELGIUM | 473 | 1.6 |
| NETHERLANDS | 438 | 1.5 |
| SWITZERLAND | 346 | 1.2 |
| POLAND | 325 | 1.1 |
| OTHER MEMBER STATES | 1,494 | 5.1 |
| TOTAL | 29,240 | 100.0 |

Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

Figure 9 shows a map indicating how many times the simultaneous or alternating pursuit of activities in Spain is mentioned or requested in each of the Member States in accordance with a PD A1 (Art. 13) and a bar chart showing the number of PDs A1 (Art. 13) per State. As can be seen, the most requested State is France (in 85% of PDs A1), followed by Germany, Portugal, Italy, Belgium and the Netherlands in similar percentages (between 50 and 60% of PDs A1). It should be noted that this type of PD A1 is mainly issued for road transport, and France is not only a neighbouring State, but also the territory that must be transited in order to reach the rest of the EU by land.

Figure 9. Receiving countries of persons insured in Spain working in several Member States (PD A1 Article 13), 2023



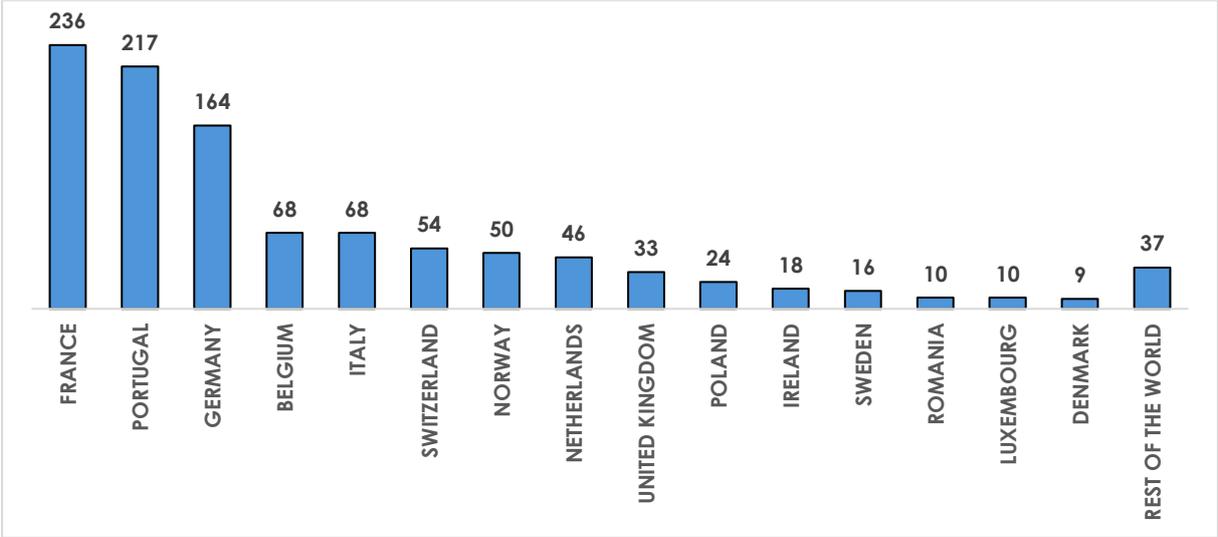
Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project.

Furthermore, we consider it necessary to assess that, with the exception of the non-EU territory of Gibraltar (which has only been requested in 127 of the PD A1 Art. 13 issued in 2023), other EU Member States were also requested on a significant number of occasions: between 38% for Austria and 16% for Iceland (a territory where simultaneous road transport work is less likely). This is because, most likely, when activities are carried out simultaneously or alternately in a large number of countries, as is the case with road hauliers, the company tends to include all Member States, even if the probability of carrying out activities in them is low, as may be the case with Iceland or Cyprus. This circumstance raises doubts about the regularity required for the application of Article 13.

3.4.3 Member States with which PD A1 agreements are signed (Art. 16)

As can be seen in Figure 10, the Member States with the highest labour mobility are, logically, those with which the most Article 16 agreements were signed in 2023. Of the 1,060 PDs A1 issued, the first Member State with which Spain signs agreements is France (236, equivalent to 22.2%), followed closely by Portugal, with which around 20.5% were signed, and Germany, with 15.5%. From there, the numbers decrease, with Belgium and Italy signing 68 agreements (6.4% of the total with each). However, it is noteworthy that countries not previously mentioned as usual destinations for intra-Community mobility of Spanish workers, such as Switzerland and Norway, appear with percentages close to 5%.

Figure 10 . Countries with which Spain has signed Article 16 agreements, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

3.5 By nationality of posted workers

Regarding the nationality of the workers for whom PDs A1 were issued, Figure 11 distinguishes between types of PD A1, although it should be noted that, regardless of this variable, Spanish nationals predominate in all types of PD A1. In general, it seems logical that non-Spanish nationals are the group most affected by the issuance of PDs A1, as they are migrants and lack the roots in the national territory and the reluctance to international mobility that a sedentary Spanish national might have.

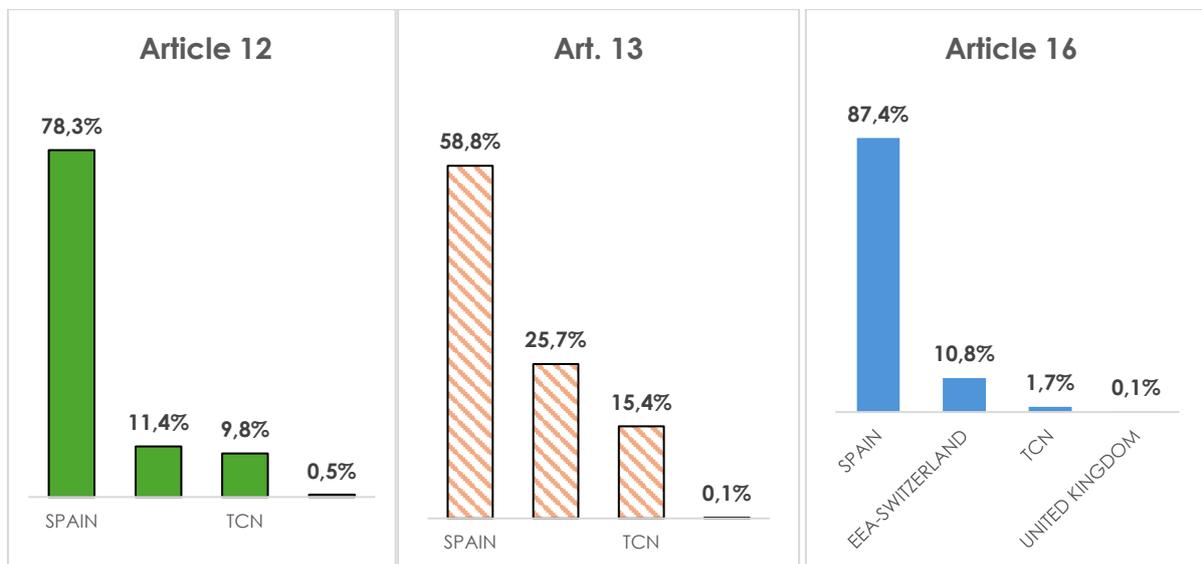
Firstly, with regard to movements from Spain, in **PD A1 (Art. 12)**, the predominant nationality of the workers involved, according to Figure 11, shows that 78.3% were Spanish (77% in 2020), 11.4% were

nationals of other EEA Member States or Switzerland, and just over 10.3% were third country nationals (TCNs), including 0.5% of British workers within that percentage.

Secondly, the proportion is different in the **PDs A1 (Art. 13)** issued by Spain in 2023, as Spaniards account for less than 60%, with a very significant percentage of EEA and Swiss citizens (more than 25%) and TCN workers growing to 15.4%. This higher presence of non-Spanish citizens may be due, to a certain extent, to the increasing difficulty of the companies consulted in the sector to find Spanish drivers who are willing in road transport. It is hard work that Spanish citizens reject.

Finally, regarding agreements, **PDs A1 (Art. 16)** are issued in a very high percentage in favour of Spanish nationals (87.4%), who are undoubtedly more inclined to maintain Spanish social security coverage through them. This red line seems to decrease considerably with regard to TCN, who only benefit from 1.7% of the agreements signed by Spanish social security.

Figure 11. Nationality group of persons for whom PDs A1 are issued in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

As we can see in the following table, only 1.05% of PDs A1 (of all types) are issued per Spanish member of the national system. This percentage rises to 1.27% if we consider members of all nationalities and to 1.4% if we consider only TCN.

With regard to **TCN**, it should be noted that the percentage of PD A1 in favour of this group (10.3%) is similar to their presence in the Spanish labour market, i.e. the percentage of foreign nationals registered in Spain (around 11% if we include British nationals). The highest percentages of PD A1 in favour of NTEs refer to citizens of Senegal, who receive 11.5% of PD A1 for members of that nationality, followed by nationals of Mali (almost 7%). In absolute numbers, Moroccans lead the way with 8,370 PD A1.

More surprising is the percentage of PDs A1 for **EEA and Swiss nationals**, as they represent only 4.15% of members in Spain, but 16.25% of PDs A1 (of all types) are issued in their favour. This means that almost 5% of PDs A1 are issued in favour of EEA and Swiss citizens affiliated to the Spanish social security system. This intra-Community mobility of EEA and Swiss nationals affiliated in Spain may stem from their knowledge of the Member States of destination and their language. Thus, it is logical that if a Spanish company has Italian workers, they are the most willing or the most suitable to be posted to Italy. Although the largest group of insured persons in Spain of these nationalities are Romanians (38.22%), followed by

Italians (20.32%), those who receive proportionally more PDs A1 per number of members are Portuguese and Bulgarian nationals. Obviously, in absolute numbers of PD A1, those who receive the most are Romanians (16,431), followed by Portuguese (6,067) and Italians (5,204).

Table 9. PD A1 by nationality compared with affiliation data in Spain, 2023

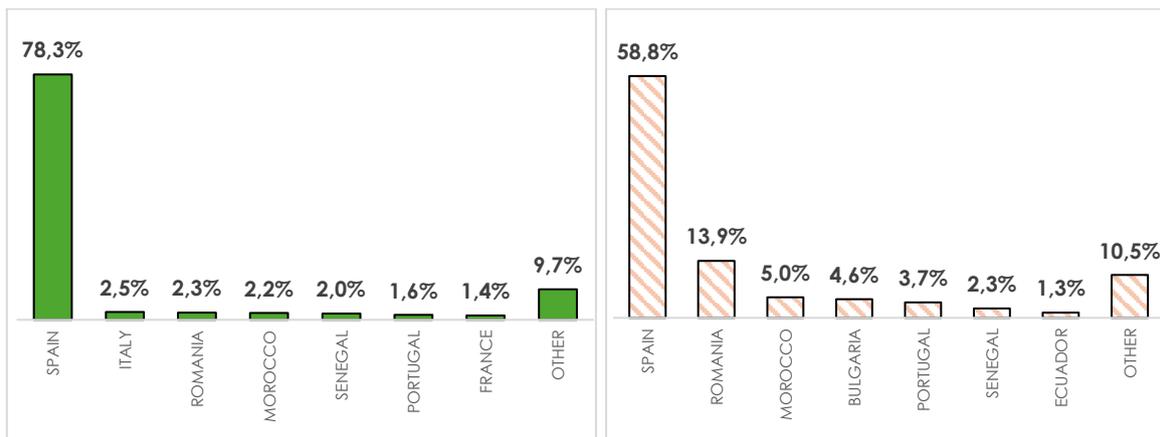
| COUNTRY OF NATIONALITY | PD A1 | | SS AFFILIATES | | PD A1 / MEMBER |
|------------------------|----------------|----------------|-------------------|---------------|----------------|
| | No | % | No. | % | % |
| Spain | 189,231 | 71.70 | 18,087,287 | 87.24 | 1.05 |
| EEE-SWITZERLAND | 42,899 | 16.25 | 859,418 | 4.15 | 4.99 |
| Romania | 16,431 | 6.23 | 328,545 | 1.58 | 5.00 |
| Portugal | 6,067 | 2.30 | 63,927 | 0.31 | 9.49 |
| Italy | 5,204 | 1.97 | 174,664 | 0.84 | 2.98 |
| Bulgaria | 4,548 | 1.72 | 55,714 | 0.27 | 8.16 |
| France | 2,839 | 1.08 | 56,702 | 0.27 | 5.01 |
| United Kingdom | 1,012 | 0.38 | 63,880 | 0.31 | 1.58 |
| Other TCN | 30,780 | 11.66 | 2,230,400 | 10.76 | 1.38 |
| Morocco | 8,370 | 3.17 | 319,433 | 1.54 | 2.62 |
| Senegal | 5,469 | 2.07 | 47,568 | 0.23% | 11.50% |
| Ecuador | 2,287 | 0.87 | 69,815 | 0.34 | 3.28 |
| Mali | 1,819 | 0.69 | 26,335 | 0.13 | 6.91 |
| Ukraine | 1,662 | 0.63 | 65,694 | 0.32 | 2.53 |
| TOTAL | 263,922 | 100.00% | 20,733,042 | 100.00 | 1.27 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on workers registered in Spain from the Social Security Registration Database.¹⁰⁷

It seems interesting to differentiate between the two main types of PD A1 (those under Article 12 and those under Article 13) in order to identify the predominant nationalities. As can be seen in the bar charts in Figure 12 below, **PDs A1 (Article 12)** are overwhelmingly issued to Spanish nationals (78.3% in 2023, a slight decrease from 80% in 2020). Next, we find only Italian and Romanian nationals, followed in similar proportions (around 2%) by African TCN (from Morocco and Senegal). Secondly, with regard to **PD A1 (Art. 13)**, the proportion of Spanish nationals stands at 58.8%, followed by Romanians (13.9%), with Moroccans, Bulgarians and Portuguese nationals accounting for similar percentages. The final sections of this chapter analyse nationality in certain sectors of activity.

¹⁰⁷ <https://www.seg-social.es/wps/portal/wss/internet/EstadisticasPresupuestosEstudios/Estadisticas/EST8/EST10/EST305>

Figure 12. Differences in nationality between PD A1 Art. 12 and Art. 13 in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

3.6 By sector of activity

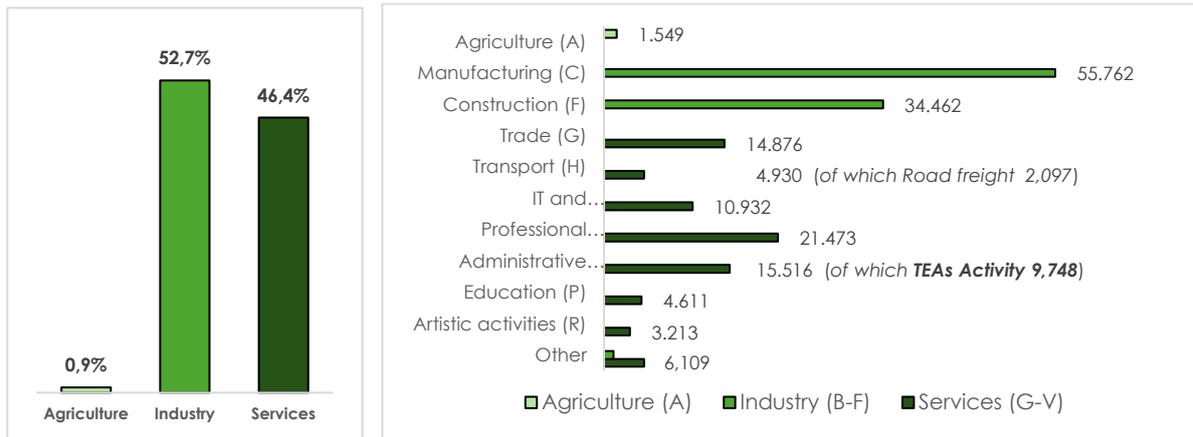
Figure 13 shows the proportion of posting (**PDs A1 art. 12**) in 2023 by sector of activity of the companies involved. Firstly, it is evident that the issuance of these PDs A1 predominates in the **industrial sector** (52.7%), which consists of two relevant subsectors:

- **Manufacturing**, a subsector in which 32.6% of PDs A1 (art. 12) were issued in that year. This subsector includes a wide range of activities, such as manufacturing of machinery for the metallurgical industry; manufacturing of metal structures and components; manufacturing of other general-purpose machinery; manufacturing of motor vehicles; installation of industrial machinery and equipment; repair of machinery; ship repair and maintenance.
- **Construction**, to which 20.12% of the PDs A1 (art. 12) issued were assigned.

In second place, with a slightly lower percentage, is the **services sector** (46.4%), where so-called "professional activities" predominate.

Thirdly, although the agricultural sector appears to be of very limited importance (only 0.9%) regarding posting, as will be seen, the service sector includes TEAs and a high percentage (around 90%) of PDs A1 (Art. 12) required by TEA were issued precisely for agricultural workers. These workers have been identified by their insurance in the Special System for Agricultural Employees (SETA). Taking TEAs' activity into consideration, the importance of the agricultural sector in the posting of PDs A1 (Art. 12) is clear, accounting for around 6.5% of the total. This is no longer an insignificant figure.

Figure 13. Sectors of activity of PD A1 Art. 12, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

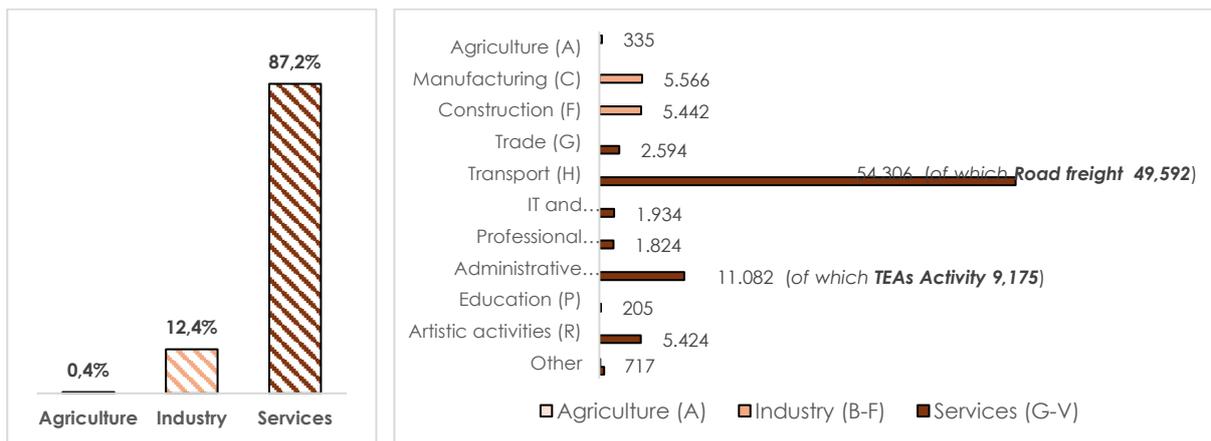
However, within the framework of PD A1 (art. 13), the order is reversed (Figure 14):

Firstly, the **services** sector predominates significantly (87.2%), mainly in the road transport subsector, which accounts for 61% of all PDs A1 (art. 13) issued.

The **industrial** sector accounts for only 12.4%, and the 11,000 PDs A1 (art. 13) issued are divided almost equally among the manufacturing and construction subsectors.

Once again, it appears that posting in the **agricultural sector** is marginal (0.4% of PD A1 art. 13), but, as we will see when we analyse the main sectors of activity in greater detail, almost 90% of workers posted through TEAs are affiliated to the SETA. This means that around 10.6% of PDs A1 (art. 13) would correspond to workers in this sector in total.

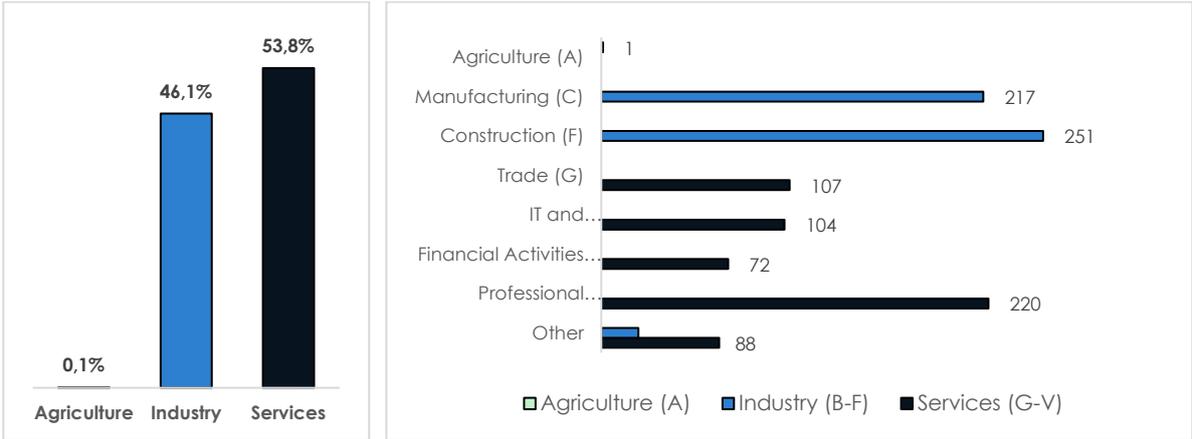
Figure 14. Sectors of activity of PD A1 Art. 13, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project.

Finally, as shown below, the proportion of PDs A1 (Art. 16) is similar between the **services and industry subsectors**. The subsectors with the highest number of agreements were Construction, followed by Manufacturing and Professional Services. Agreements in the **agricultural sector** account for only 0.1% of the total. In this case, TEAs do not seem to have any weight, as the subsector to which they belong, "Administrative activities," is not even mentioned among the relevant ones.

Figure 15. Sectors of activity of PD A1 Art. 16, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

It is interesting to connect the importance of travel in some sectors with the number of workers affiliated to them. In this regard, the following main ideas can be highlighted, according to Table 10:

Firstly, for the **transport** subsector, where mobility could be considered intrinsic, the highest number of PDs A1 per affiliated worker is issued proportionally (5.62%), with road freight transport shooting up to 7.90%, making it the highest proportion.

Next is the **construction** sector with a much lower percentage of 2.90%. Mobility in this case may be due to the internationalisation of this sector, as it is one of the most powerful subsectors in the Spanish economy. Thirdly, another industrial sector stands out, namely **manufacturing**, with 2.86%.

On the other hand, although the number of PDs A1 per member in the **agricultural** sector is minimal (only 0.18% of members), it is worth noting that the movement of **TEAs** (which reaches 2.70%) would occupy fourth place: of the 702,623 members, a high percentage of employees affiliated with the Special Agricultural System are made available to agricultural companies in other Member States through PDs A1 (Articles 12 and 13). In fact, it appears that of the 18,959 PDs A1 requested by TEAs, a very high percentage (90%) relates to this agricultural activity if we look at the affiliation of the workers concerned.

Finally, we find the **artistic activities** sector (2.22%), which is also subject to high mobility. However, in absolute terms, this sector only accounted for the issuance of 8,639 PDs A1.

Table 10. PD A1 by sector of activity compared with affiliation data in Spain, 2023

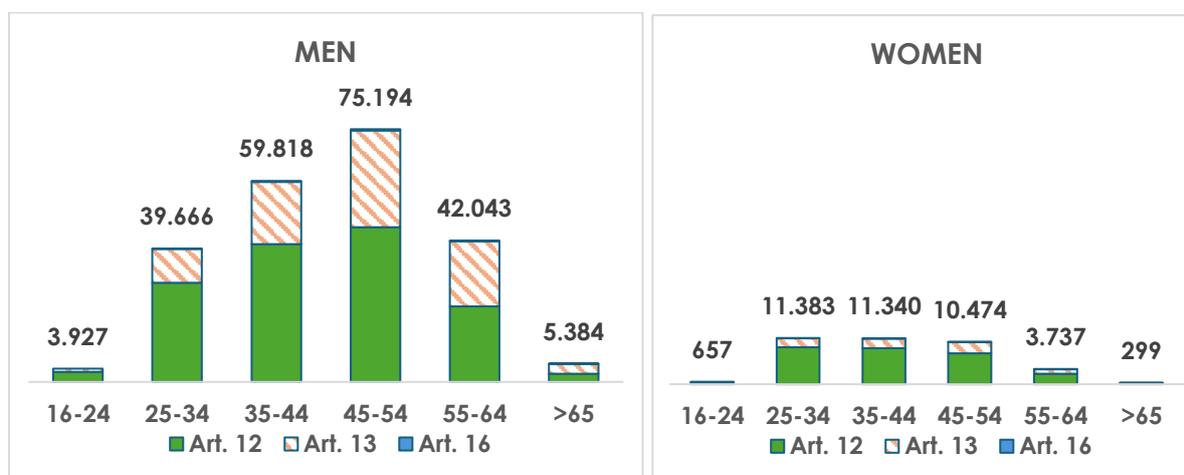
| ACTIVITY | PD A1 | | SS AFFILIATES | | PD A1 / AFFILIATE |
|--|----------------|----------------|-------------------|---------------|-------------------|
| | No | % | No. | % | % |
| Agriculture and others (NACE A) | 1,885 | 0.71 | 1,029,242 | 4.96 | 0.18 |
| Industry (NACE B to F) | 102,975 | 39.02 | 3,758,806 | 18.13 | 2.74 |
| Manufacturing (C) | 61,545 | 23.32 | 2,150,076 | 10.37 | 2.86 |
| Construction (F) | 40,155 | 15.21 | 1,384,802 | 6.68 | 2.90 |
| Services (NACE G to V) | 159,062 | 60.27 | 15,944,994 | 76.91 | 1.00 |
| Trade (G) | 17,577 | 6.66 | 3,343,430 | 16.13 | 0.53 |
| Transport (H) | 59,245 | 22.45 | 1,053,627 | 5.08 | 5.62 |
| <i>Road freight (4941)</i> | 51,694 | 19.59 | <i>654,280</i> | <i>3.16</i> | 7.90 |
| Information and communications (J) | 12,970 | 4.91 | 723,649 | 3.49 | 1.79 |
| Professional activities (M) | 23,517 | 8.91 | 1,238,449 | 5.97 | 1.90 |
| Administrative assets (N) | 26,615 | 10.08 | 1,567,948 | 7.56 | 1.70 |
| <i>TEAs activities (7820)</i> | 18,959 | 7.18 | <i>702,623</i> | <i>3.39</i> | 2.70 |
| Education (P) | 4,832 | 1.83 | 1,332,860 | 6.43 | 0.36 |
| Artistic activities (R) | 8,639 | 3.27 | 388,365 | 1.87% | 2.22% |
| TOTAL | 263,922 | 100.00% | 20,733,042 | 100.00 | 1.27 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on workers registered in Spain from the Social Security Registration Database.

3.7 Sex and age of workers in PD A1

The average age of posted workers is 45.2 years old for men and 41.2 years old for women. The average is slightly lower among PD A1 (art.12) workers: 43.9 years old for men and 40.7 years old for women; than among PD A1 (art.13) workers: 47.5 years old for men and 42.5 years old for women. There is also a clear disproportion between men and women, as on average men are sent at least five times more than women. In fact, just over 85% of PDs A1 are issued in favour of men.

Figure 16. PDs A1 by sex and age of the worker in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

The age group with the highest number of postings is men between 45 and 54 years of age, who account for almost one in three postings. It can therefore be said that the **typical posted worker** is a 45-year-old man.

Table 11. PDs A1 by gender and age compared with social security insurance data in Spain, 2023

| MEN | | | | | |
|--------------------|----------------|---------------|---------------------------------|--------------|------------------------|
| AGE | PD A1 | | Social security insured persons | | PD A1 / insured person |
| 16-24 | 3,927 | 1.49 | 731,194 | 3.53 | 0.54 |
| 25-34 | 39,666 | 15.03 | 2,042,340 | 9.85 | 1.94 |
| 35-44 | 59,818 | 22.67 | 2,660,278 | 12.83 | 2.25 |
| 45-54 | 75,194 | 28.49 | 3,171,638 | 15.30 | 2.37 |
| 55-64 | 42,043 | 15.93 | 2,126,382 | 10.26 | 1.98% |
| >65 | 5,384 | 2.04 | 193,593 | 0.93 | 2.78% |
| Total men | 226,032 | 85.64% | 10,925,425 | 52.70 | 2.07 |
| WOMEN | | | | | |
| AGE | PD A1 | | Social security insured persons | | PD A1 / insured person |
| 16-24 | 657 | 0.25% | 608,553 | 2.94% | 0.11 |
| 25-34 | 11,383 | 4.31 | 1,858,064 | 8.96 | 0.61 |
| 35-44 | 11,340 | 4.30 | 2,448,607 | 11.81 | 0.46 |
| 45-54 | 10,474 | 3.97 | 2,850,969 | 13.75 | 0.37 |
| 55-64 | 3,737 | 1.42 | 1,871,629 | 9.03 | 0.20% |
| >65 | 299 | 0.11% | 169,794 | 0.82% | 0.18% |
| Total women | 37,890 | 14.36 | 9,807,618 | 47.30 | 0.39% |
| Total | 263,922 | | 20,733,042 | | 1.27 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on workers registered in Spain from the Social Security Registration Database.

The difference in migration between men and women can be seen in all age groups, although it is slightly less pronounced among 25- to 34-year-olds, an age group in which men migrate three times more than women in proportion to their affiliation levels. These are younger ages at which women may not yet have had children. Among those over 55, on the other hand, the difference is accentuated: men move in almost the same proportion at this age as at younger ages, and even in greater proportion from the age of 65 onwards, the age group in which the maximum of 28 PDs A1 per 1,000 men registered with social security is reached. Among women, on the other hand, the posting ratio declines progressively with age from the peak in the 25-34 age group, falling from a maximum of 6 PDs A1 per 1,000 women registered with social security to a minimum of less than 2 PDs A1 per 1,000 registered women among women over 65.

3.8 Company size

This section analyses the number of PDs A1 issued according to company size, considering the number of employees according to the EU classification.¹⁰⁸

As shown in Table 12, in general, the companies that request the most PDs A1 in absolute numbers are medium and large companies. The only significant difference is in relation to Article 16 agreements, which are signed in greater numbers by large companies.

Table 12. PDs A1 by company size in Spain, 2023

| | PDs A1 2023 | | | | |
|--------------------------------------|----------------|---------------|--------------|----------------|--------------|
| | Art. 12.1 | Art. 13.1 | Art. 16 | Total | % |
| Micro-business (1-9) | 9,173 | 7,746 | 31 | 16,950 | 6.8 |
| Small business (10-49) | 37,635 | 23,997 | 94 | 61,726 | 24.6 |
| Medium-sized company (50-249) | 58,017 | 27,999 | 197 | 86,213 | 34.4 |
| Large company (>250) | 60,508 | 24,461 | 695 | 85,664 | 34.2% |
| Total | 165,333 | 84,203 | 1,017 | 250,553 | |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project.

If we contextualise this information with the distribution of employees in the Spanish business network, the picture changes. In Spain, micro-businesses predominate, as there are more than 1 million of them. However, almost 40% of employees are concentrated in just over 5,000 large Spanish companies.

As shown in the table below, the companies that request the most PDs A1 per employee are, by far, medium-sized companies, with 3.18 PDs A1 per 100 workers. Large companies do not even reach half this number, as they only request 1.37 PDs A1 per employee. In fact, even small companies, with between 10 and 49 employees, post more than large companies in relative terms, as they request 1.85 PDs A1 per employee.

Table 13. PDs A1 per employee by company size in Spain, 2023

| | PD A1 2023 | Companies Spain 2023 | | PD A1 / employee |
|--------------------------------------|----------------|----------------------|-------------------|------------------|
| | | No. of companies | No. of employees | |
| Micro-business (1-9) | 16,950 | 1,129,503 | 3,450,962 | 0.49 |
| Small business (10-49) | 61,726 | 169,169 | 3,333,143 | 1.85 |
| Medium-sized company (50-249) | 86,213 | 27,407 | 2,714,544 | 3.18 |
| Large company (>250) | 85,664 | 5,391 | 6,236,010 | 1.37 |
| Total | 250,553 | 1,331,470 | 15,734,659 | 1.59 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on companies in Spain from the SME Figures Report, June 2023.¹⁰⁹ Portal IPYME

¹⁰⁸ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized businesses [notified under number C(2003) 1422]

¹⁰⁹ <https://ipyme.org/Publicaciones/CifrasPYME/CifrasPYME-junio2023.pdf>

3.9 Sector analysis

This section provides a more detailed analysis of several sectors that are particularly relevant from the point of view of posting, at least in terms of posting figures.

3.9.1 The agricultural sector and temporary employment agencies

According to the NACE classification, the posting of workers in the agricultural sector is very low. However, if we analyse the issuance of PD A1 forms associated with workers affiliated to the Special System for Agricultural Employees (SETA), the number of PD A1 forms is almost nine times higher than that of PD A1 forms classified under heading A of the NACE. This divergence is because many workers affiliated to SETA are posted through TEAs. This section provides a more detailed analysis of the posting of workers in the agricultural sector.

The following table categorizes the number of PDs A1 issued by Spain in 2023, the estimated number of workers involved and the average number of PDs A1 issued per worker, by type of applicant (agricultural companies, TEAs and self-employed workers).

Table 14. PDs A1 permits issued and workers in the agricultural sector in Spain, 2023

| Type of PD A1 | No. of PDs A1 | Estimated workers | PDs A1 per worker |
|--|---------------|-------------------|-------------------|
| Art. 12 – To work in a single State | 10,211 | 6,978 | 1.46 |
| <i>Workers in agricultural companies</i> | <i>1,476</i> | <i>1,144</i> | <i>1.29</i> |
| <i>TEA workers</i> | <i>8,662</i> | <i>5,763</i> | <i>1.50</i> |
| <i>Self-employed agricultural workers</i> | <i>73</i> | <i>71</i> | <i>1.03</i> |
| Art. 13 – To work in two or more States | 8,380 | 6,010 | 1.39 |
| <i>Workers in agricultural companies</i> | <i>334</i> | <i>313</i> | <i>1.07</i> |
| <i>TEA workers</i> | <i>8,012</i> | <i>5,663</i> | <i>1.41</i> |
| <i>Self-employed agricultural workers</i> | <i>34</i> | <i>34</i> | <i>1.00</i> |
| Agreements under Article 16 | 1 | 1 | 1.00 |
| <i>Workers in agricultural companies</i> | <i>1</i> | <i>1</i> | <i>1</i> |
| Total Agricultural Sector | 18,592 | 12,989 | 1.43 |
| <i>Workers in companies in the sector</i> | <i>1,811</i> | <i>1,458</i> | <i>1.24</i> |
| <i>TEA workers</i> | <i>16,674</i> | <i>11,426</i> | <i>1.46</i> |
| <i>Self-employed workers</i> | <i>107</i> | <i>105</i> | <i>1.02</i> |

Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

Almost 90% of PDs A1 in the agricultural sector were issued by TEAs, and table 16 shows that 88% of TEAs posted workers were insured to SETA. Therefore, TEAs are the main way of posting agricultural workers in Spain, and agriculture is the main source of intra-EU posting of TEAs.

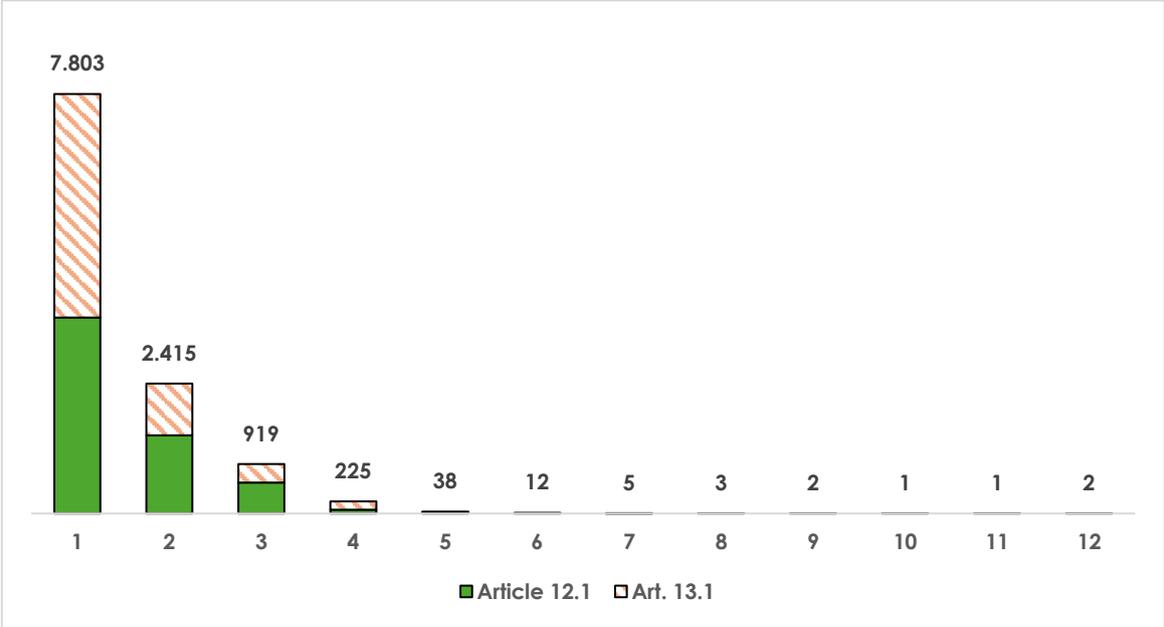
Table 15. Social Security affiliation regime for PDs A1 in TEA activities in Spain, 2023

| Social Security affiliation scheme | PD A1 art. 12.1 | PD art. 13.1 | Total PD A1 |
|--|-----------------|--------------|---------------|
| Special System for Agricultural Workers (SETA) | 8,662 | 8,012 | 16,674 |
| | (89%) | (87%) | (88%) |
| General Scheme | 1,122 | 1,163 | 2,285 |
| PD A1 totals for TEA activity | 9,784 | 9,175 | 18,959 |

Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

As shown in the figure below, two-thirds of agricultural employees in TEAs received one PD A1 (Art. 12 and 13), while the remaining third received two or three.

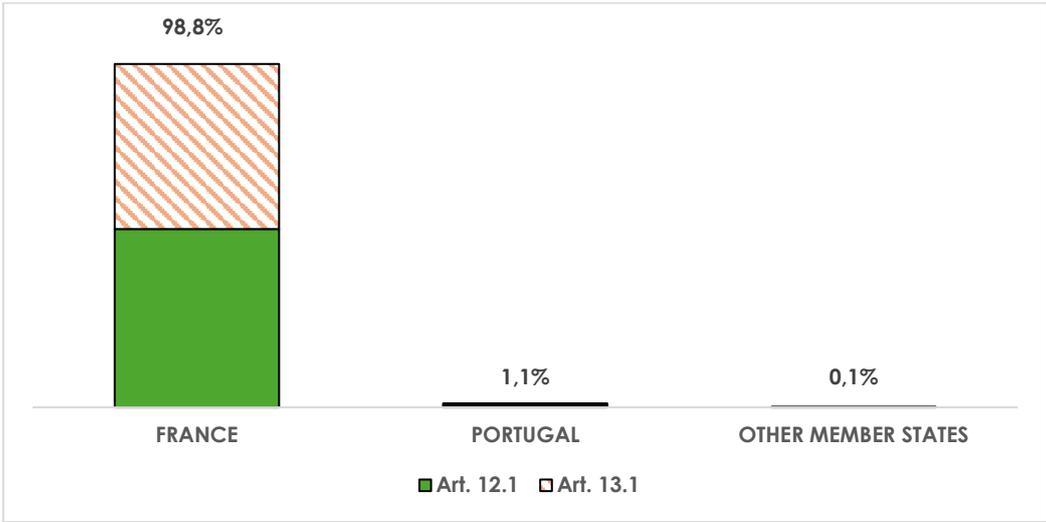
Figure 17. Number of PDs A1 per worker in the agricultural sector requested by TEAs in Spain, 2023



Source: Data provided by the TGSS as part of the *Posting.stat 2.0* project

The user companies, or clients, of these Spanish TEA are almost entirely located in France, as shown in Figure 18.

Figure 18. Country of destination of PDs A1 in the agricultural sector through TEA in Spain, 2023

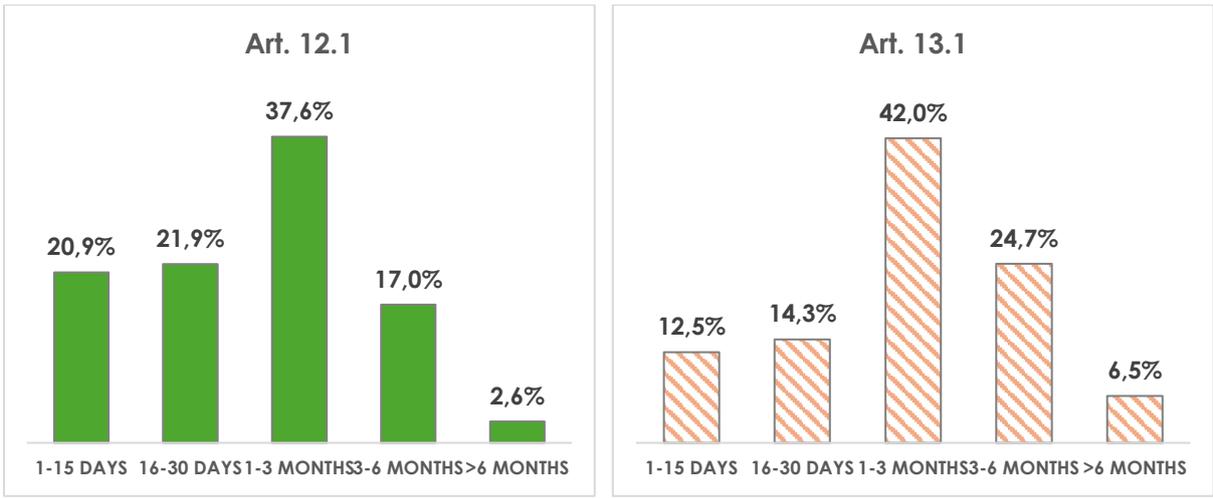


Source: Data provided by the TGSS as part of the *Posting.stat 2.0* project

With regard to the duration recorded in PDs A1, it should be noted, as summarised in Figure 19, that the **average duration** of PDs A1 in the agricultural sector through TEAs in Spain in 2023 was 65.7 days, with little difference between the average duration of PDs A1 under Article 12.1 (54.6 days) and those under Article 13.1 (77.6 days).

The typical duration of both types of PDs A1 is between one and three months. The percentage of PD A1 (Art. 12) issued for periods of less than one month is also significant (43%). Meanwhile, PDs A1 (Art. 13) are mostly issued for periods between one and six months (67%). In both cases, the number of PDs A1 issued for periods exceeding six months is negligible.

Figure 19. Duration of PDs A1 in the agricultural sector through TEA in Spain, 2023.

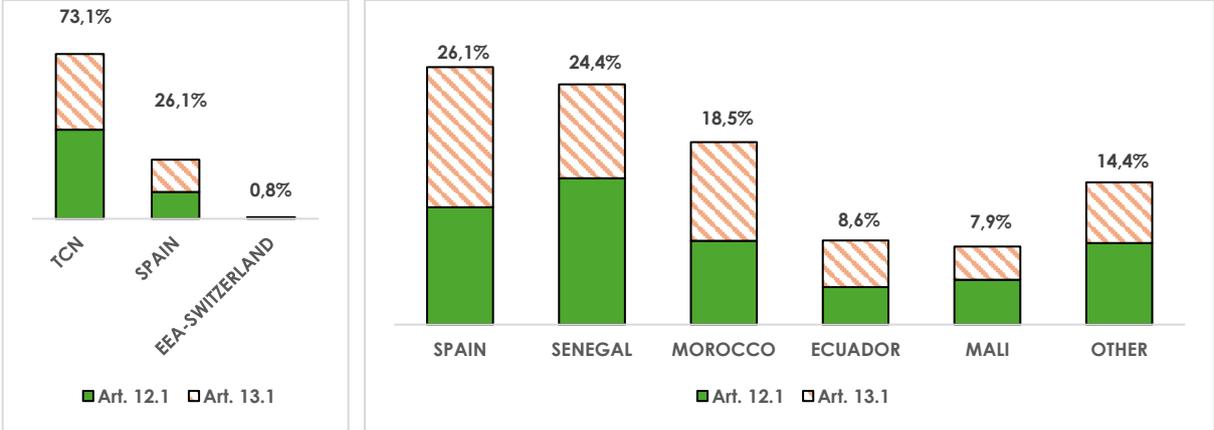


Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

With regard to the nationality of agricultural workers assigned by TEAs, it should be noted that, contrary to what was mentioned in general terms, the majority of posted workers are TCNs, mainly from Africa (almost 51%, primarily Senegalese and Moroccans, and to a lesser extent, Malians). The proportion of TCNs

in the sector is considerably higher than that of Spanish citizens or EEA or Swiss nationals, not so much because the posting ratio is particularly high, but because of the low posting ratio of EEA and Swiss citizens working in the agricultural sector.

Figure 20. Nationality of workers: PDs A1 in the agricultural sector through TEA in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project.

It should be noted that, since taking effect on 20 May 2025, the new Immigration Regulations Royal Decree 1155/2024,¹¹⁰ without explaining this decision in its preamble, expressly prohibits TEAs from applying for administrative authorisations for foreigners to carry out seasonal activities (Title V)¹¹¹ and the collective management of recruitment at source (Title VI)¹¹² with regard to foreigners who are not located in or do not reside in resident in Spain. Residence and work permit for seasonal activities, in line with Directive 2014/36/EU on the conditions of entry and residence of third-country nationals for employment purposes, authorise seasonal work, in many cases in the agricultural sector. The procedure for "Collective management of recruitment at source" considers the national employment situation, i.e. the labour needs of businesses that are not met by national workers. The Ministerial Order regulating the collective management of recruitment at source for 2026¹¹³ excludes the participation of TEAs by referring to the provisions contained in the new Regulation.

On 23 June 2025, the Secretary of State for Migration defended this exclusion, even though it did not exist in the previous Regulation¹¹⁴ and TEAs are not mentioned in the articles of the Organic Law on Foreigners that both develop.¹¹⁵ It carried out a systematic interpretation of the regulatory requirements for employers to conclude that "the procedure is based on the application for coverage of a vacant position in the applicant company and not on the application submitted by a company – such as a TEA – to make the worker available to another company or person."¹¹⁶

110 Royal Decree 1155/2024 of 19 November approving the Regulations of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration; Permalink ELI: <https://www.boe.es/eli/es/rd/2024/11/19/1155/con>

111 See Article 101.1.3 of Royal Decree 1155/2024.

112 See art. 121.2 of RD 1155/2024.

113 Order ISM/1547/2025, of 23 December, regulating the collective management of recruitment at source for 2026. Permalink ELI: <https://www.boe.es/eli/es/o/2025/12/23/ism1547>

114 Regulation approved by Royal Decree 557/2011, of 20 April (Ref. BOE-A-2011-7703).

115 Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration. Permalink ELI: <https://www.boe.es/eli/es/lo/2000/01/11/4/con>

116 Along the same lines, in a recent administrative resolution dated 14 November 2025 signed by the deputy delegate of the Government in Alicante, seasonal authorization was denied to a foreigner because they had not presented an employment contract with their final employer or the company where the seasonal activity was to be carried out, and it was not accepted that the employer was a TEA. We understand that this refusal will also be challenged before the administrative courts.

An appeal has been lodged against the expressed refusal of the Immigration Regulations¹¹⁷ Contentious-administrative appeal no. 19/2025 before the 5th section of the Contentious-Administrative Chamber of the Supreme Court, which is still *sub judice*. This exclusion closes a route by which TEAs could obtain foreign citizens with administrative authorisation. It is not known whether the work permits that are now being denied are those held by the majority of workers posted in 2023. In fact, after consulting the EU Mobility Unit of the Spanish Labour Inspectorate, it was confirmed that the foreign workers posted by the TEA Terra Fecundis (a French case analysed in depth in our previous report) did not have the seasonal work permits that are now being denied to TEAs.

In any case, it is clear that the posting of workers through TEAs is particularly significant (Table 16), with 141.3 PDs A1 issued in their favour for every 1,000 workers in the sector hired through TEAs. Considering that the PDs A1 issued are estimated to correspond to 11,426 people, almost 1 in 10 workers in the sector hired through TEAs were posted abroad in 2023, mainly to France. The movement of non-salaried or self-employed workers, on the other hand, is much lower than the average for registered workers in Spain. All these data allow us to affirm that the widespread use of TEAs as a recruitment tool for the posting of agricultural workers does not reflect the reality of the sector in Spain, but is something specifically associated with the posting of workers.

Table 16. PD A1 issued in the agricultural sector compared with affiliation data in Spain, 2023

| TYPE OF CONTRACT | PD A1 | SS AFFILIATION | PD A1 / AFFILIATED |
|------------------------------------|---------------|------------------|--------------------|
| Workers in companies in the sector | 1,811 | 652,365 | 0.28 |
| TEA workers | 16,674 | 118,000 | 14.13 |
| Self-employed workers | 107 | 258,877 | 0.04% |
| COUNTRY OF NATIONALITY | PD A1 | SS AFFILIATION | PD A1 / AFFILIATED |
| Spain | 1,986 | 690,242 | 0.29 |
| EEA-Switzerland | 103 | 65,000 | 0.16 |
| Other TCN workers nationality | 6,573 | 274,000 | 2.40 |
| TOTAL AGRICULTURAL SECTOR | 18,592 | 1,029,242 | 1.81 |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on workers registered in Spain from the Social Security Registration Database and Statistics on foreign workers and TEAs for 2023 from the Ministry of Labour.¹¹⁸

In any case, in order to accurately assess the impact of the posting of agricultural workers from Spain (PD A1 Articles 12 and 13), it should be noted that in 2023, we are referring to 12,884 workers (18,485 PD A1). This figure is not particularly striking in a sector in which there are more than 700,000 workers in Spain (including workers affiliated to the sector by agricultural companies and TEAs), with less than 2% of these workers being posted. Furthermore, most of these 12,884 workers went to a much larger labour market, namely the relevant French agricultural sector, which also demands a lot of labour from other Member States. In France, for example, "seasonal and temporary work accounts for more than 800,000 contracts," according to an organisation similar to Spain's Public Employment Service. Regarding the grape harvest, according to ANEFA, the National Association for Employment and Training in Agriculture¹¹⁹, grape harvesting accounts for around 45% of total seasonal employment, with 360,000 contracts signed¹²⁰.

117 By the association "Extranjeristas en Red" <https://www.extranjeristas.org/>

118 https://www.mites.gob.es/estadisticas/Ett/ett23Definitivo/ETT_2023.pdf;
<https://www.mites.gob.es/ficheros/ministerio/estadisticas/anuarios/2023/CEX/CEX.pdf>;
<https://www.mites.gob.es/ficheros/ministerio/estadisticas/anuarios/2023/AEX/AEX.pdf>

119 Association Nationale paritaire pour l'Emploi et la Formation en Agriculture. <https://www.anefa.org/lassociation/qui-sommes-nous/>

120 See the INFORMATIVE GUIDE ON LABOUR FOR THE 2025 FRENCH GRAPE HARVEST CAMPAIGN published by the Ministry of Agriculture, Fisheries and Food and the Comisiones Obreras (CCOO) trade union. P. 3 <https://industria.ccoo.es/Qad70f3d38f38463b761a2483c506a75000060.pdf>

3.9.2 The construction sector

The posting of workers in the construction sector is also significant, being more than double the average for Spain, as 29 PDs A1 are issued for every 1,000 Social Security affiliates in favour of companies in the sector, while the national average is just under 13 PDs A1 per 1,000 affiliates. For this reason, a more detailed analysis of posting in the construction sector is provided in this section.

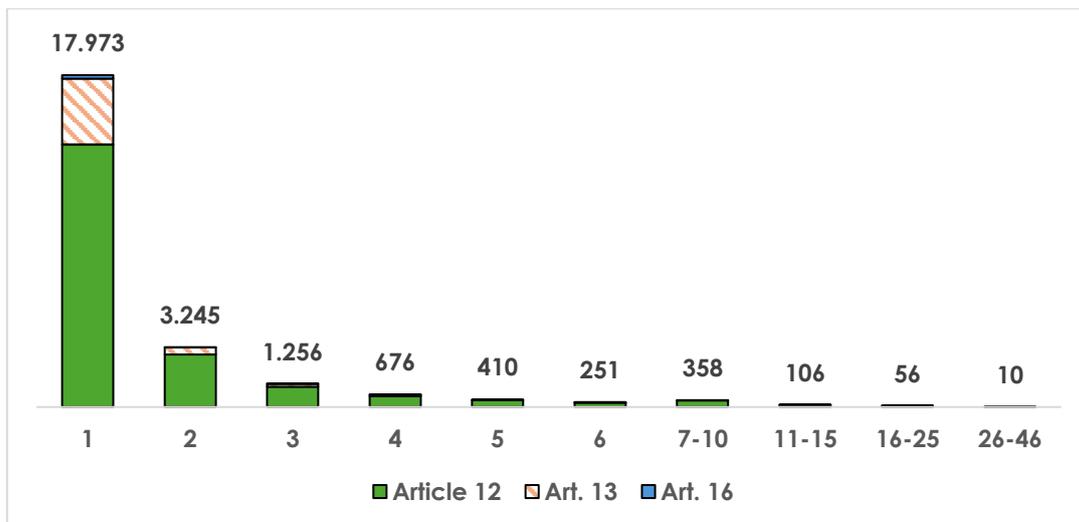
Table 17 summarises the number of PDs A1 issued by type of worker and type of posting and the estimated number of workers involved, which is considerably lower, especially in relation to PDs A1 (Art. 12), which are issued 1.73 times for each of the workers involved. In general, in 2023, just over 40,000 PDs A1 were issued in Spain for just over 24,000 workers, more than 80% of which were associated with Article 12.1, i.e. they corresponded to employees who were temporarily and sporadically posted to provide a service in another Member State.

Table 17. PD A1 permits issued and applicants in the construction sector in Spain, 2023

| Type of PD A1 | No. of PDs A1 | Estimated workers | PDs A1 per person |
|--|---------------|-------------------|-------------------|
| Art. 12 – To work in a single State | 34,462 | 19,901 | 1.73 |
| <i>Employed workers</i> | 32,552 | 18,610 | 1.75 |
| <i>Self-employed workers</i> | 1,910 | 1,291 | 1.48 |
| Art. 13 – To work in two or more States | 5,442 | 4,224 | 1.29 |
| <i>Employed workers</i> | 4,749 | 3,582 | 1.33 |
| <i>Other situations</i> | 693 | 642 | 1.08 |
| Agreements under Article 16 | 251 | 216 | 1.16 |
| TOTAL | 40,155 | 24,341 | 1.65 |

Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

Figure 21. Number of PDs A1 per worker in the construction sector in Spain, 2023

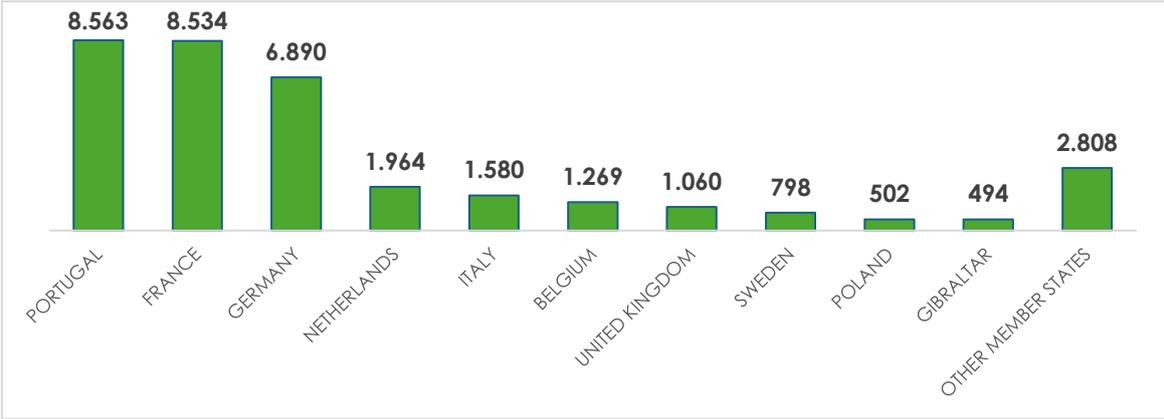


Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

Each posted worker in the construction sector requested an average of 1.65 PDs A1, and the distribution of the number of PDs A1 requested is shown in Figure 21. This shows that the majority of applicants (74%) request a single PD A1 and less than 8% of applicants request more than 3 PDs A1. In the construction sector, therefore, it can be said that posting is, for the most part, a one-off event which, in some cases, is repeated once or twice, but which rarely results in a series of postings throughout the year.

The following figure shows that the posting of workers under PD A1 Article 12 is mainly concentrated in three countries: Portugal, France and, to a lesser extent, Germany. Also, due to the small size of the market, the posting to Gibraltar is noteworthy.

Figure 22. Receiving country for PD A1 art. 12 in the construction sector in Spain, 2023



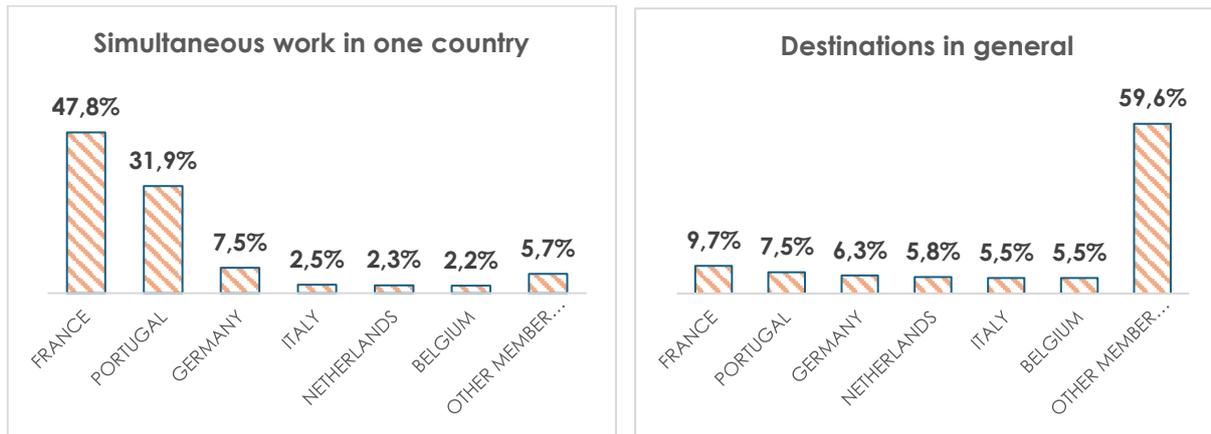
Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project

In any case, the volume of posted workers is low. Taking into account the ratio of 1.73 PDs A1 per posted worker in Article 12, it is estimated that fewer than 6,000 workers are posted to both France and Portugal. In the case of Portugal, for example, this volume of posted workers represents less than 1.5% of the local workforce in the construction sector (which amounted to some 420,000 registered workers in 2023). In our view, this does not appear to be a significant impact, even in the context of the Spanish construction sector, which is three times larger (in 2023, there were 1,366,307 members in the sector in Spain).¹²¹

As shown in the figure below, PDs A1 (Art. 13) in the construction sector are requested to a greater extent for a small number of countries. Around 45% of PDs A1 Art. 13 were requested for a single additional country, and almost 80% were requested for fewer than 10 countries. When a PD A1 Art. 13 is requested for a single additional country, it is usually for a neighbouring country, mainly France and, to a lesser extent, Portugal. Together, these two countries account for almost 80% of PDs A1 Art. 13 requested to carry out activities in Spain and in another foreign country.

¹²¹ Data extracted from the Observatory of Occupations and the Centre for Labour Relations. "The labour market and labour mobility between Spain and Portugal 2024 (2023 data)." State Public Employment Service. P. 14 <https://sepe.es/dctm/informes:09019af480261183/REITRVdFQg==/4347-1.pdf>

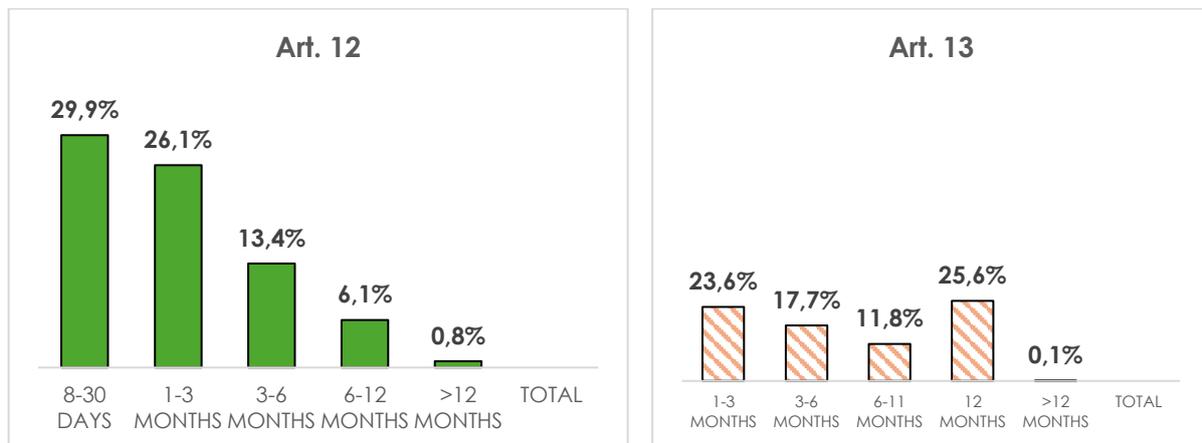
Figure 23. Receiving country of PD A1 Art. 13 of the construction sector in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project

The average duration of PDs A1 in the construction sector in Spain in 2023 was, in general, 76.2 days. However, the duration varies according to the type of PD A1: those under art. 12 lasted an average of two months (60.2 days), while those under article 13 lasted more than twice as long, reaching almost half a year (163.8 days).

Figure 24. Duration of PDs A1 in the construction sector in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) within the framework of the *Posting.stat 2.0* project

With regard to the nationality of the workers involved, unlike in the agricultural sector, the majority of posted workers are Spanish (76.6%). It is striking that EEA and Swiss nationals are almost as numerous as TCN workers, despite the fact that the latter outnumber the former in the national market, in terms of registered workers. For this reason, EEA nationals are issued 5.53 PDs A1 per 100 workers insured in Spain and TCN nationals only 2.93 (not including British nationals, who receive almost one PDs A1 per 100 workers insured in Spain). As shown in the following table, among EEA and Swiss nationals, Romanian and Italian nationals stand out, while among TCN nationals, Moroccans stand out, as they are the most present in the Spanish construction market. Proportional to the number of affiliates, the highest number of PDs A1 are issued to Senegalese nationals (the lowest in absolute numbers in the table with only 328 PDs A1), followed by Peruvians and Ukrainians.

Table 18. PDs A1 issued in the construction sector by nationality compared with affiliation data in Spain, 2023

| COUNTRY OF NATIONALITY | A1 PD | SS AFFILIATION | PD A1 / AFFILIATED |
|----------------------------------|---------------|------------------|--------------------|
| Spain | 30,776 | 1,135,006 | 2.71% |
| EEE-Switzerland | 4,546 | 82,262 | 5.53% |
| Romania | 2,222 | N/A | - |
| Portugal | 1,230 | N/A | - |
| Italy | 393 | N/A | - |
| United Kingdom | 38 | 3949 | 0.96% |
| Other third country | 4,795 | 163,585 | 2.93% |
| Morocco | 1,268 | 44,326 | 2.86% |
| Ukraine | 415 | 10,229 | 4.06% |
| Ecuador | 386 | 11,892 | 3.25% |
| Peru | 346 | 7,454 | 4.64% |
| Colombia | 345 | 15,680 | 2.20% |
| Senegal | 328 | 4,362 | 7.52% |
| TOTAL CONSTRUCTION SECTOR | 40,155 | 1,384,802 | 2.90% |

Source: PD A1 data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project. Data on workers registered in Spain from the Social Security Registration Database and 2023 statistics on foreign workers from the Ministry of Labour.¹²²

3.9.3 The road freight transport sector

The mobility of workers in the road freight transport sector is particularly significant in Spain, both in terms of overall figures and when analysing the proportion of workers in the sector who are posted. In 2023, just under 52,000 PDs A1 associated with road freight transport were issued, which represents a level of posting that is six times higher than the average for Spain, as 79 PDs A1 are issued per 1,000 Social Security affiliates in the sector, while the national average is just under 13 PDs A1 per 1,000 members. For this reason, a more detailed analysis of posting in the road freight transport sector is provided in this section.

The following table summarises the number of PDs A1 issued by type of worker and type of travel and the estimated number of applicants. In 2023, as indicated, just under 52,000 PDs A1 were issued in Spain, affecting an estimated 49,000 people. The vast majority, specifically 91%, were associated with Article 13.1, i.e. they corresponded to workers residing in Spain who were employed by others and who usually exercised their profession simultaneously in two or more Member States.

¹²² <https://www.mites.gob.es/ficheros/ministerio/estadisticas/anuarios/2023/AEX/AEX.pdf>

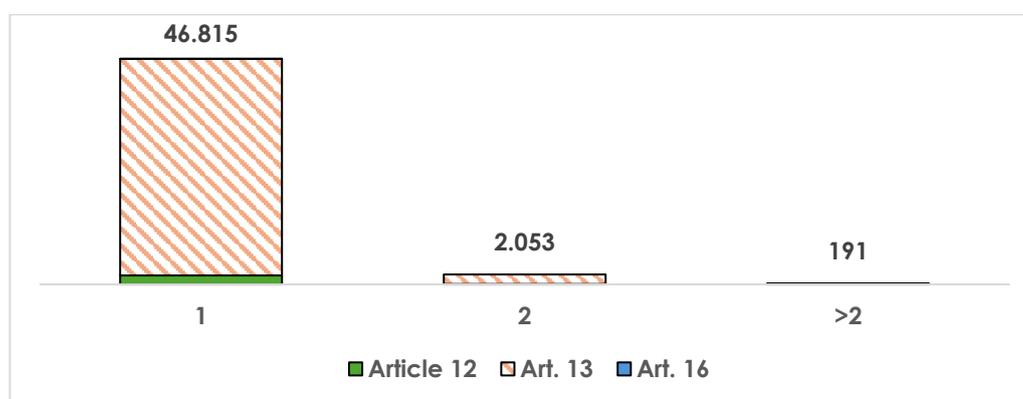
Table 19. PDs A1 issued and workers in the road freight transport sector in Spain, 2023

| Type of PD A1 | No. of PDs A1 | Applicants | PDs A1 per person |
|--|---------------|---------------|-------------------|
| Art. 12 – To work in a single State | 2,097 | 1,951 | 1.07 |
| <i>Employed workers</i> | 1,713 | 1,632 | 1.05 |
| <i>Self-employed workers</i> | 384 | 319 | 1.20 |
| Art. 13 – To work in two or more States | 49,592 | 47,103 | 1.05 |
| <i>Employed workers</i> | 47,261 | 44,814 | 1.05 |
| <i>Other situations</i> | 2,331 | 2,289 | 1.02 |
| Agreements under Article 16 | 5 | 5 | 1.00 |
| TOTAL | 51,694 | 49,059 | 1.05 |

Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

Each worker in the road freight transport sector requested just over one PD A1 on average, regardless of the type of document, including in the case of PDs A1 (Art. 12). As already noted, it is common for a PD A1 (Art. 13) to be issued for the whole year. As we can see in Figure 25, only a few transport operators requested more than one PD A1 in 2023, as more than 95% requested a single PD A1, mostly under Art. 13.

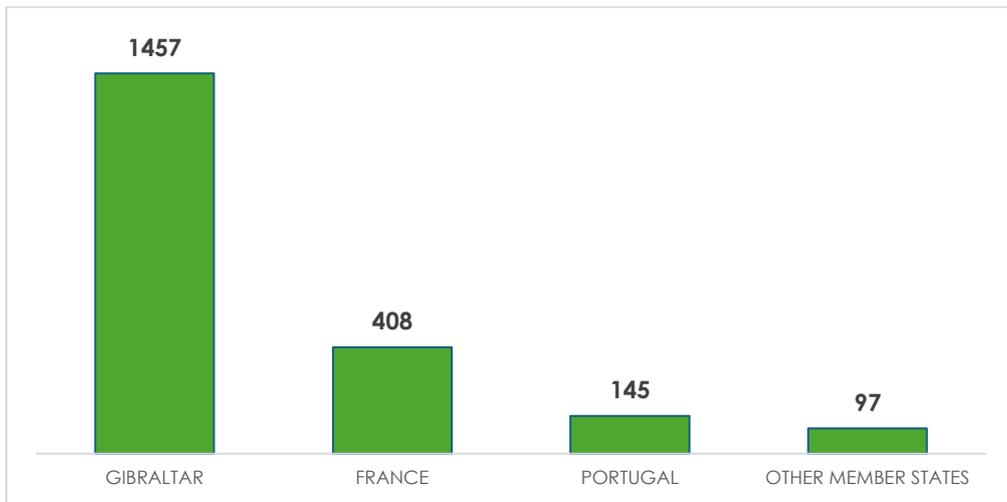
Figure 25. PDs A1 per worker in the road freight transport sector in Spain, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

Although the number of PDs A1 (Art. 12) is not very significant, if we look at the following figure, it is curious that the most frequent destination country for posting is Gibraltar, well above the two Member States that share a border with Spain. It seems that Gibraltar largely depends on workers registered in Spain who carry out their work there transporting goods on an *ad hoc* basis.

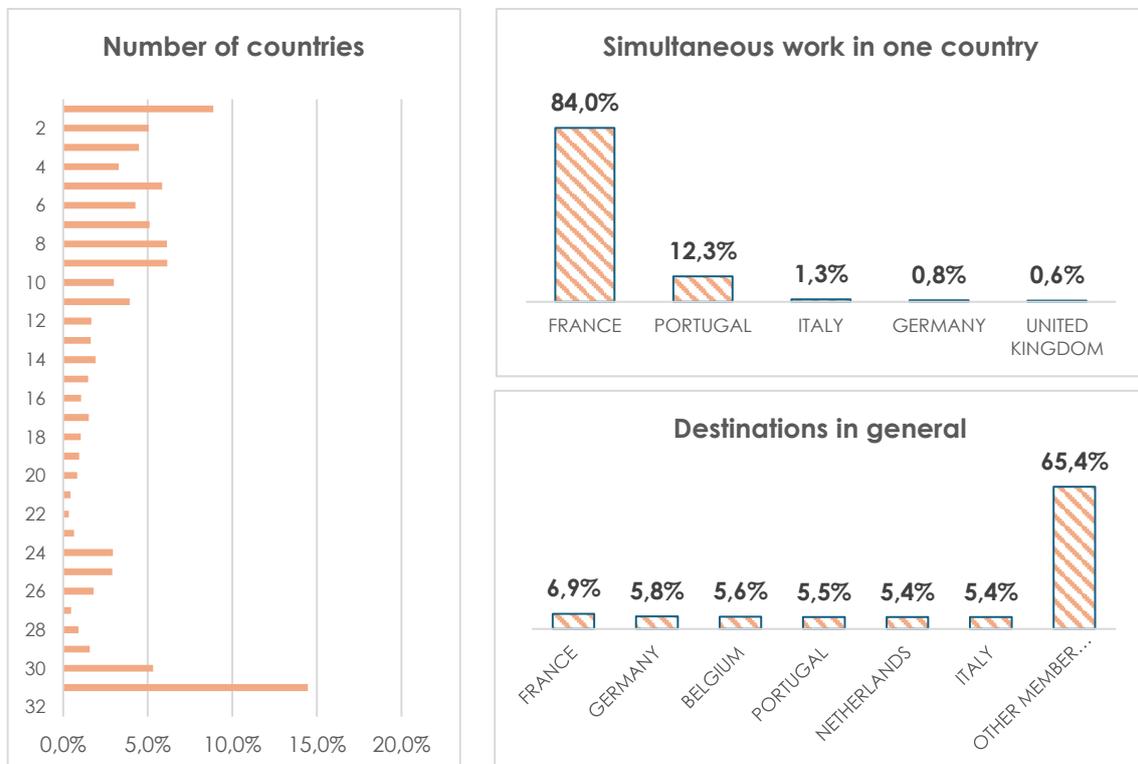
Figure 26. Country of destination of PDs A1 Art. 12 for road freight transport in Spain, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

PDs A1 under Art. 13 are the most relevant in the road freight transport sector. As usual, Spanish companies requested this type of PD A1 for a large number of countries in 2023, and in many cases for the EEA, Switzerland and the United Kingdom (but not Gibraltar). When requested for a small number of countries, neighbouring countries are almost always included, particularly France. France is mentioned at a very high rate when only one state appears on the PD A1 form (Art. 13). France also stands out, albeit to a much lesser extent, when different Member States are mentioned on the PDs A1.

Figure 27. Country of destination of PDs A1 Art. 13 in the road freight transport sector in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

As shown in Figure 28, with regard to the duration of PDs A1 in the road transport sector, these are PDs A1 (Art. 12) for periods of less than one year or less than six months. PDs A1 (Art. 13) follow a similar pattern, with almost half being requested for one year and 33% for periods of less than six months. The average duration of PDs A1 in the road freight transport sector in Spain in 2023 was around 8 months (251.8 days), as mentioned above, with a very similar duration for both PDs A1 (Art. 12) (243.2 days) and those under Art. 13 (252.1 days).

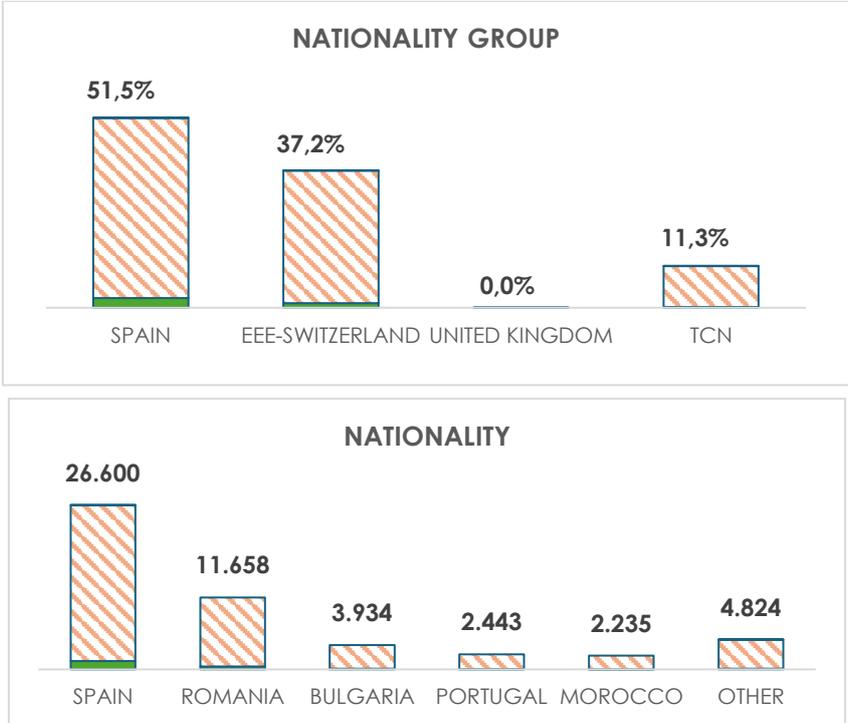
Figure 28. Duration of PDs A1 for road freight transport in Spain, 2023



Source: Data provided by the TGSS within the framework of the *Posting.stat 2.0* project

Although most of the posted workers are Spanish (51,5%), there is a significant presence of Romanian citizens (22,6%), which means that almost one in four transporters is Romanian. There are also Bulgarian and Portuguese transporters, as 37,2% of PDs A1 are issued to EEA and Swiss nationals. Only 11,3% are TCNs, with Moroccans being the most numerous.

Figure 29. Nationality of workers with PDs A1 Road freight transport in Spain, 2023



Source: Data provided by the TGSS (General Social Security Treasury) as part of the *Posting.stat 2.0* project

4. Intra-EU Postings of workers to Spain

In this section, we focus on postings to Spain. For this analysis, we rely on PDs A1 (Art. 12) issued by other countries. More importantly, we draw on fresh field research, which entailed gathering data from the labour authorities of Spain's 17 Autonomous Communities and conducting interviews with the heads of the relevant institutions. The subsequent sections outline the methodology employed to obtain this data, followed by an analysis of the scale, characteristics, key sectors of activity, duration, and trends in postings to Spain throughout 2023.

4.1. Previous situation, limitations and direct data collection

In Spain, together with the PDs A1, the only source that provides an approximation of the number of posted workers to Spain from the receiving perspective is the prior notifications made by employers to the regional labour authorities, or those of Ceuta and Melilla, when they mobilise to provide transnational services. Since January 2025, the *Ley 45 Portal* has been active and operational. This is a web application that allows companies to electronically report the posting of workers to Spain, in compliance with Law 45/1999. Registration completed on a single portal where, once the company has registered with a digital certificate or username and password, it can access the portal, select the AA.CC. where the services will be provided and make the notification. Although we already pointed this out in Chapter 2, it should be emphasised that Law 45/1999 imposes the obligation to notify the posting prior to the start of the activity upon all companies. The notification must be made to the competent labour authority in the territory where the services are to be provided except in the case of companies in road freight transport, which must notify the posting of workers through the IMI (Article 22 of Law 45/1999): the 'EU Portal for road transport posting declarations' is the obligatory prior declaration tool that operators must use when posting drivers to another Member State.

As we noted in 2022, there is an exception to the general obligation to notify postings in Spain: when the duration of the postings is less than 8 days. In these cases, it is not necessary to notify the posting (Art. 5.3 Law 45/1999) unless the company is a TEA, which will always have to notify it regardless of the duration of the service provision. This exception can make it difficult to know exactly how many postings there are to Spain. We consider this legal exception to be a significant shortcoming that prevents us from having a complete picture of the actual number of posted workers to Spain and the characteristics of this type of unreported posting. Furthermore, it prevents or hinders their control by the labour inspectorate (Carrascosa & Contreras, 2022: 46).

Although, since 2017, there should have been a collaboration protocol between the Ministry of Labour and the AA.CC. for the establishment of a central electronic register of notifications, thus ensuring adequate intercommunication and the availability of data on notified postings (Art. 5.1 and Additional Provision 6 of Law 45/1999), the truth is that this single register or portal was not implemented until January 2025, and regulatory development is still pending. Because of this, until that time, there has been no centralised, public data available for direct consultation, i.e. without an express and justified request such as that made in the context of the *Posting.stat* project. However, it is foreseeable that such data will be accessible (or at least exist) from January 2026 onwards.

The labour authorities of the AA.CC. have been receiving notifications of posting of workers submitted by companies that post workers to their territory, so despite not having a centralised register before, notifications have been made at regional level. Being aware of this and despite all the difficulties involved, in 2024, we contacted the MTES and the OEITSS with the intention of initiating a process to collect this

data directly from the competent institutions.¹²³ In July 2024, a request was made to them to report the data included in the notifications received between 2021 and 2023. Specifically:

- Number, name, country of origin (established in the EU/EEA/Switzerland or in a third country) and sector of activity (NACE) of foreign companies that notified the labour authorities of the Autonomous Communities of the posting of workers in the context of the provision of transnational services.
- Number and name of Spanish companies receiving services and their sector of activity (NACE).
- Duration of the posted assignments notified and, where applicable, information on long-term assignments (beyond 12 months).
- Number of posted workers, category or profession performed and their nationality.
- Identification of the type of posting: subcontracting, intra-company/intra-group or through a TEA.

Once the request had been made, from September 2024 to October 2025, contact was maintained with all the heads of the AA.CC., to whom it was necessary to explain the reasons for the request, the destination and the organisation of the information required. A significant number of them created databases specifically to respond to the request for information because, although they had the communications, they had not been standardised, were not available for statistical use and, in most cases, were not in digital format. It should be noted that all the competent institutions responded to the request, except for the Islas Baleares which, unlike in 2021 (when they did provide information), did not provide the data despite repeated requests¹²⁴. It should be acknowledged at this point that many AA.CC. were very slow in delivering the data, mainly because they did not have the specific technical means, because the files were not digitised or in a single database and because it was necessary to carry out *ad hoc* computer processing of the files.

Upon receipt of the data from the last Autonomous Communities that submitted the required information in October 2025, it was compiled into a file with 17 *Excel* databases for statistical analysis. This is one of the most significant new features of this report: the availability of data and results related to the posting of workers to all Spanish regions in 2023. Specifically, we have information on the scale, origin, characteristics, duration and main sectors of activity in which the posted workers provided their services. However, although this is a step forward, the data has limitations, firstly because the information provided to us is in many cases was incomplete, as it does not include some of the data requested and/or because it cannot be classified or standardised in a single unified database due to the way it had been organised by each of the AA.CC. In any case, we consider that the data collected and the results they provide represent an improvement on the previous situation and, when compared with the PDs A1 (Art. 12) issued by other Member States, they provide an overview of the volume, characteristics and impact of the posting of workers to Spain.

4.2. Scale and trend of the posting of workers to Spain

In 2023, Spain was the **seventh place of EU/EFTA countries** to receive the highest number of posted workers (Art. 12). In fact, since 2020, the number of PDs A1 issued to send workers to Spain has continued to grow, rising from 82,296 PDs A1 issued in 2020 to almost 190,000 PDs A1 in 2023 (De Wispelaere, De Smedt & Pacolet, 2025: 30). In other words, the number of PDs A1 to send posted workers to Spain has increased by almost 130% in only three years.

With regard to **the net balance of postings in Spain** (the difference between the number of PDs A1 issued and received), it should be noted that, according to the PDs A1 (Art. 12) issued in 2023 for employees and self-employed workers, more posted workers were received in Spain (189,887) than were sent to other

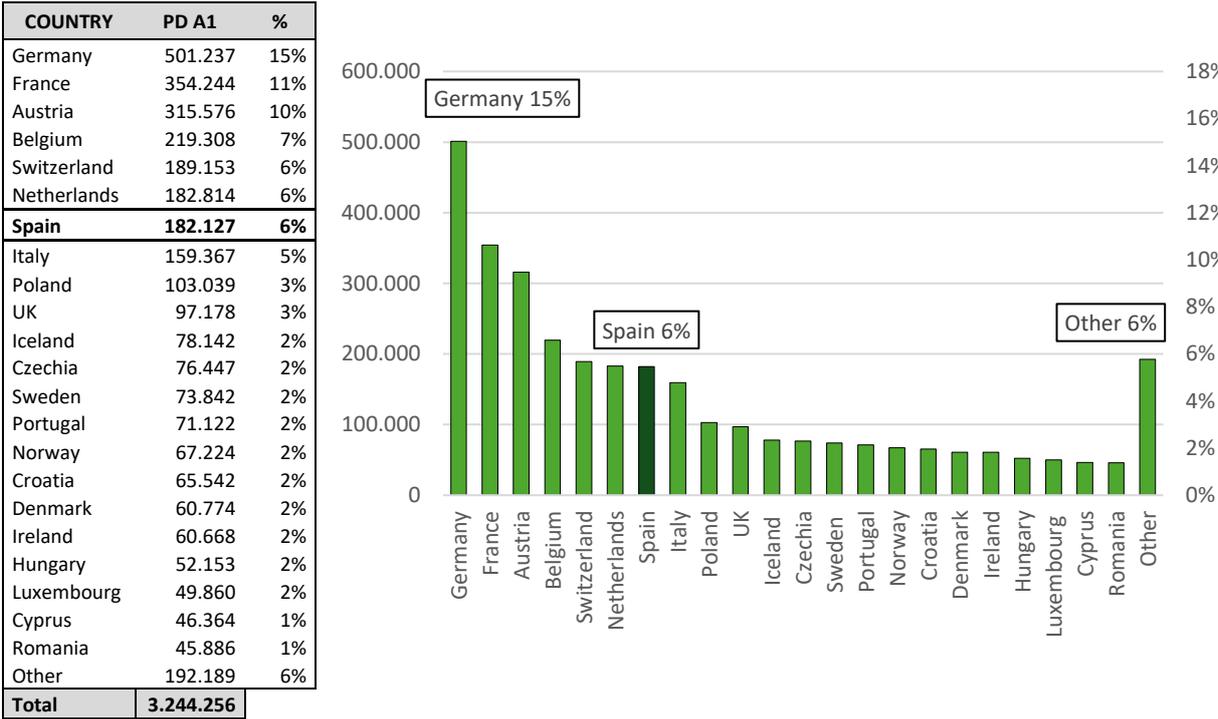
¹²³ At this point, again, we would like to thank Manuel Velázquez Fernández (head of the Special Coordination Unit for Combating Fraud in Transnational Work, part of the OEITSS) and Gonzalo Giménez Coloma (Advisor to the OEITSS Management), who made a request for data. We would also like to thank the officials from the regional labour authorities who provided us with the data after compiling, collecting and exporting it so that we could undertake this project and national report.

¹²⁴ For this AA.CC., the data for 2020 has been incorporated into the general database, which was provided at the time in response to the request made in 2021 for the country report on Spain submitted within the framework of the POSTING.STAT project.

countries (172,006). A significant point to note is that the net balance has changed. Traditionally, Spain has been a country that sends more posted workers than it receives. Between 2011 and 2022, Spain was a net sending country with regard to posting under Art. 12 (with the exceptions of 2019 and 2020). However, this trend changed in 2023, and figures suggest that this trend is likely to continue.

If we look at the most recent data available, we can see that between 2022 and 2023, the number of PDs A1 issued for the **posting of workers to Spain increased by 27%**, reaching a total of 189,887 PDs A1 issued for employees and self-employed workers in that year (De Wispelaere, De Smedt & Pacolet, 2025: 30). This figure represents an all-time high.

Figure 30. PDs A1 - Posted workers in EU/EFTA countries, by receiving Member State, 2023 (Art. 12.1)



Source: Administrative data PDs A1 Questionnaire 2024 (De Wispelaere, De Smedt & Pacolet, 2025: 31, Table 8).

The data included in the Figure 30 represent **the total volume of PDs A1 issued to posted employees sent** to a single State (Art. 12.1). Given that self-employed workers do not fall within the scope of Directive 96/71/EC (and their posting does not have to be communicated to the Spanish Autonomous Communities through the prior notification tools), they have not been included in these figures. In 2023 a total of 182,127 PDs A1 were issued to employees posted to Spain (6% of the total). These figures are similar to those for Belgium (219,308), Switzerland (189,153), the Netherlands (182,814) and Italy (159,367) but they pale in comparison to the numbers for countries that received the largest number of posted workers in 2023: Germany (501,237), France (354,244) and Austria (315,576). From a receiving perspective, these three countries account for 36% of the total number of postings in 2023, while only 6% of all PD A1 Art. 12.1 were issued to employees posted to Spain.

As we highlighted in our 2022 country report (with data referring to the 2018-2020 period), if we compare the number of PDs A1 issued by other States to send workers to Spain with the communications received by the Autonomous Communities through the prior notification tools, **significant differences** can be observed. In 2023, according to the available data, the Spanish labour authorities were notified of the posting of 48,511 persons. However, as we have already seen, a total of 182,127 PDs A1 (Art. 12) were issued in

EU/EFTA countries to send posted workers to Spain in the same year. Some of the reasons that may explain this significant discrepancy between the two sets of data are as follows:

- 1) **Shortcomings in data processing in Spain:** until January 2025, regional administrations did not have a protocol for action or a unified application to collect and export data in a uniform manner. This limitation may have led to the loss of information relating to files, notifications and/or information on the characteristics of postings.
- 2) **The different legal basis** and purpose of PDs A1 regarding prior notifications: PDs A1 are issued online and respond to actual mobility, although they may be business trips that do not constitute the provision of a service. However, sometime postings notified to the AA.CC. may not take place.
- 3) **Exemptions from the notification commitment:** unless the posting is carried out by a TEA, it is not necessary to notify the posting when the duration does not exceed 8 days.
- 4) **The non-obligation to notify the AA.CC. of postings in the road transport sector**, as they do so through the IMI (Art. 22 Law 45/1999). We believe that this could represent a significant number of the total posted workers who requested a PD A1 in other countries and **who worked in Spanish territory**¹²⁵.
- 5) **Possible non-compliance** by companies in all sectors with the obligation to notify the incoming postings to Spain.

To a large extent, these reasons may partly explain the discrepancies between the number of PDs A1 and the number of notifications or posted workers notified in the same year to the Spanish labour authorities. Indeed, it is important to consider the origin, legal basis, characteristics, limitations and nuances of both sources when interpreting the information, data and results related to posting within the EU and its particularities in Spain.

4.3. Notifications made to the competent institutions of the Autonomous Communities.

During 2023, a total of 18,497 notification files were processed in Spain through the prior notification tools available to the labour authorities of the 17 AA.CC. that make up the Spanish State by 3,385 companies established in one of the EU/EFTA Member States. During this year, these companies sent posted workers to Spain (employees) in the framework of the provision of services, notifying a total volume of 48,511 posted workers, which may represent an approximate number of 101,686 postings. Based on empirical experience and calculations made by De Wispelaere, De Smedt and Pacolet (2024: 21), we estimate that many of the posted workers to Spain are sent several times during the same year in our country, as is the case of the other Member States (Germany, Austria, Belgium and France)¹²⁶.

These results come from notifications made by employers established in other Member States who inform the competent institutions of the AA.CC. of the posting of workers to Spanish territory. Data on self-employed workers are not included (nor are they available), as they do not fall within the scope of Directive 96/71/EC and it is not mandatory to report their posting to Spain in accordance with the provisions of Article 5.1 of Law 45/1999.

¹²⁵ The data extracted from the IMI by the Special Coordination Unit for Combating Fraud in Transnational Work, relating to declarations of posting to Spain submitted during the months of July to December 2023, indicate that 342,316 declarations of posting were submitted. We consider this figure to be disproportionate, and it may be due to the fact that transport companies providing services in the EU submit declarations including all countries as possible destinations. For example, from the data received, we note that 152,836 declarations were submitted from Poland to provide services in Spain.

¹²⁶ This situation appears to be common in other Member States; data compiled from prior notification tools by De Wispelaere, De Smedt and Pacolet (2024: 20-21) shows that posted workers are sent to the same country between two and three times a year.

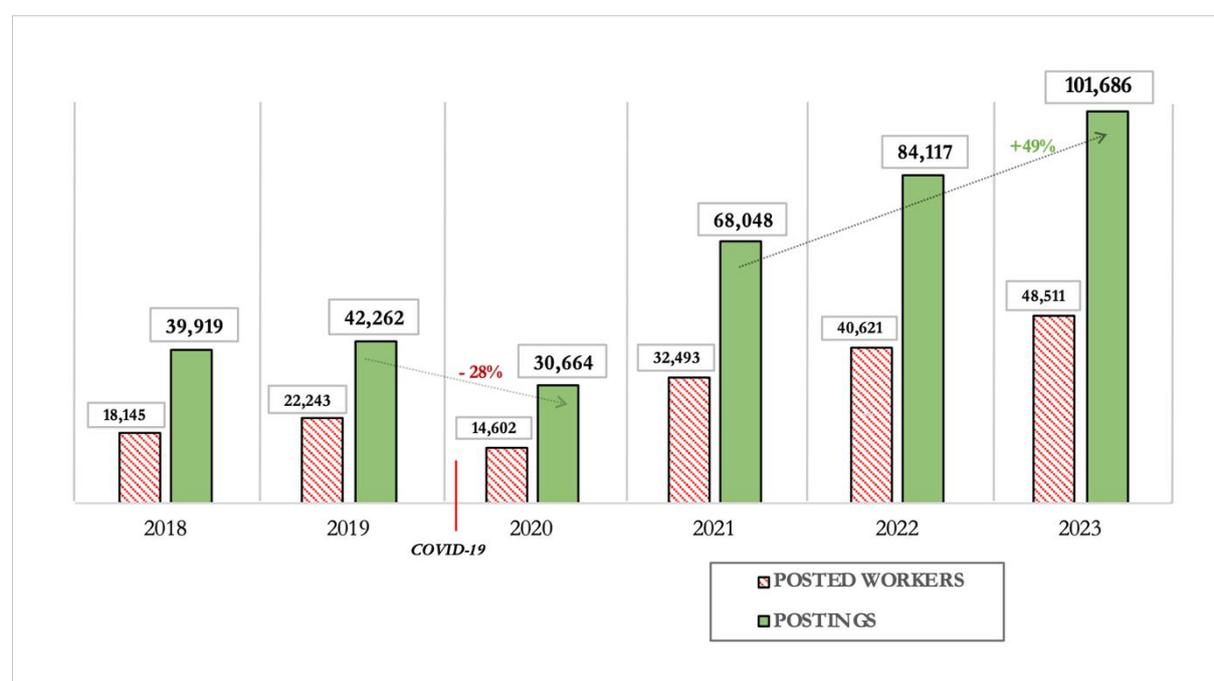
Table 20. Total number of companies, cases and posted workers to Spain, 2020-2023

| | 2020 | 2021 | 2023 |
|---|------------|------------|------------|
| Total Companies/service providers (1) | 2,587 | 2,872 | 3,385 |
| Number of notifications submitted (2) | 14,485 | 15,961 | 18,497 |
| Total postings (3) | 68,048 | 85,117 | 101,686 |
| AVERAGE NUMBER OF NOTIFICATIONS MADE PER COMPANY (2/1) | 5.6 | 5.5 | 5.5 |
| AVERAGE NUMBER OF POSTED WORKERS PER COMPANY (3/1) | 12 | 14 | 14 |

Source: Administrative data obtained from the Autonomous Communities within the framework of the *Posting.stat 2.0* project.

As can be seen in Table 20, in 2023, the average number of notification files submitted by the 3,385 service providers who posted workers from the EU/EFTA to Spain was 5.5, a figure similar to that for 2020 and 2021. These calculations indicate that foreign companies providing temporary services in Spain conduct several services during the same year (notifying the Autonomous Communities where they operate), posting workers from their place of establishment. Meanwhile, the figures for 2023 indicate that the average number of posted workers per service provider was 14, in line with 2021 and slightly higher than in 2020, when companies reported an average of approximately 12 employees per notification file to provide services in Spanish territory.

Figure 31. Number and trend of incoming postings to Spain, 2018-2023



Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat* and *Posting.stat 2.0* projects.

In 2023, a total of **48,511 posted workers** were sent to Spain, with their posting being notified through the existing prior notification tools in the 17 Spanish AA.CC. (not including postings to Ceuta and Melilla). This figure could represent an approximate volume of 101,686 postings since, in accordance with the evidence obtained by De Wispeleere, De Smedt and Pacolet (2024: 21) in their empirical studies on the

posting of workers and data collection from prior notification tools, we estimate that, as in other countries, many of the posted workers to Spain are often sent several times during the same year. The disaggregated analysis of the notifications collected shows this situation, as we observe (Table 20) that many companies that send posted workers to Spain do so several times a year (5 on average, in 2023). Furthermore, this can be better understood if we relate it, firstly, to the economic activities or sectors in which the company and the posted workers mainly provide services in Spain: construction and related sectors (industrial, residential and infrastructure construction) and industry (industrial assembly, installation of machinery, piping and metallurgy in general) and, secondly, to the reported duration of the incoming postings to Spain: less than three months (on average) for each posting/provision of services.

Considering that there were 101,686 postings in Spain, **this figure only represents 0.6% of total employment in the country**, which reached 20.8 million in December 2023. The proportion of posted workers in total employment, however, can vary considerably between sectors. As we shall see, the most intensive sector with the highest proportion of **posted workers is construction** and industry, where posted workers account for almost **1% of total employment**. In any case, these figures show that the Spanish labour market is not heavily dependent on intra-EU posting of workers, at least from the receiving perspective.

An analysis of **the trend or growth rate** shows that the number of postings increased by 6% between 2018 and 2019 but decreased by 28% between 2019 and 2020 (Carrascosa & Contreras, 2022: 46). Focusing the analysis on the year 2023, the most striking fact is that the total number of incoming postings to Spain reported to the AA.CC. is significantly lower than the number of PDs A1 (Art. 12) issued in other EU/EFTA countries for the posting of workers to Spain. In 2023, the total number of postings could reach 101,686 (48,511 people), a figure far removed from the 182,127 PDs A1 (Art. 12) issued in this year by the social security institutions of other Member States to, in theory, send posted workers to Spanish territory.

However, it should be remembered and emphasised that **postings in the road transport sector are not reported to the Autonomous Communities**, as they are reported through the IMI and could represent a significant proportion of the total number of workers who applied for a PDs A1 (Art. 13 in particular) in other countries and provided services in Spain, among other countries. As they are not notified to the regional labour authorities and **the data obtained from the IMI for this sector seem disproportionate to us** (we believe that they are not declarations of posting to a single country: Spain), they have not been included in this chapter, which is based solely on the most widely used and reliable existing sources, essentially, the PDs A1 (Art. 12) and the notifications of posting made to the AA.CC.

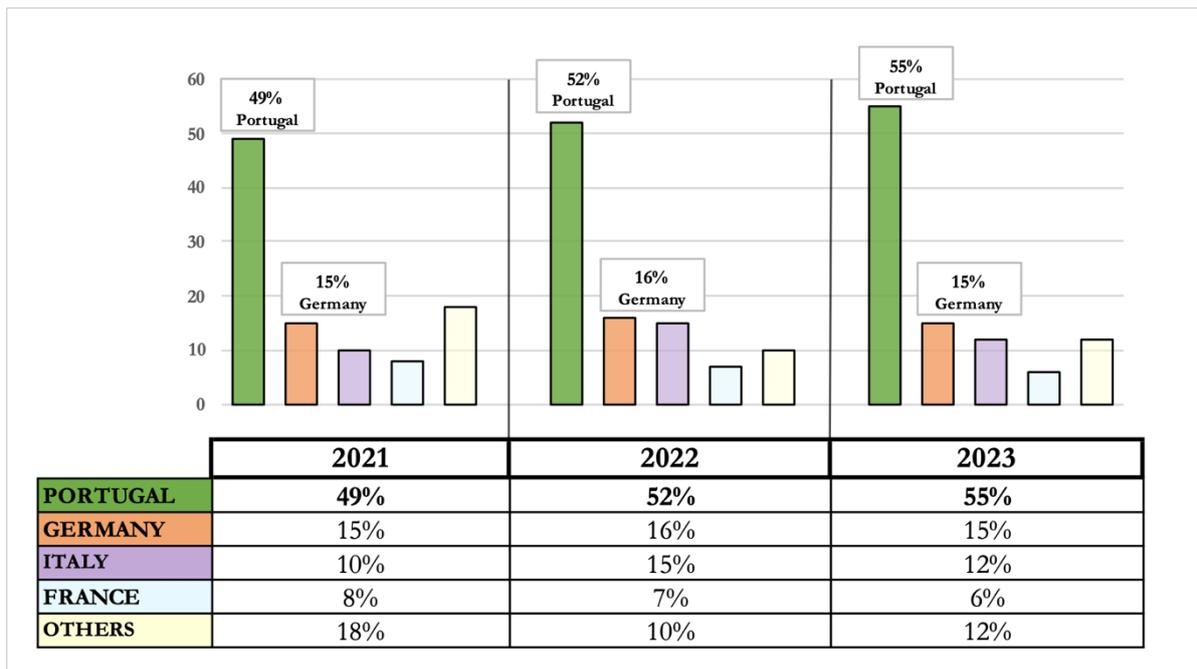
4.4. Characteristics of the posting of workers to Spain

This section presents the results obtained from the analysis of notifications made by employers who sent posted workers to Spain and notified the posting through the prior notifications tools available in the AA.CC.

4.4.1. By country of origin

The **main sending countries posted workers to Spain in 2023** were Portugal (55%), Germany (15%) and Italy (12%). These three countries accounted for a significant proportion of all postings to Spanish territory: approximately 80% of the total. As shown in the figure below, the country from which the most workers are posted to Spain is Portugal. These figures are similar to those for 2018-2020 period (Carrascosa & Contreras, 2022: 50) and have continued with the same trend during the 2021-2023 period.

Figure 32. Share of posting of workers to Spain by sending Member State, 2021-2023 (% of total)



Source: Administrative data obtained from the Autonomous Communities within the framework of the *Posting.stat 2.0* project.

Figure 32 shows that during the 2021-2023 period, **between 49% and 55% of all notifications were made by companies established in Portugal**. Germany is the country with the second highest number of postings reported to the competent Spanish authorities, accounting for 15% of the total. Italy and France rank third and fourth, with 12% and 6% of the total number of postings reported in 2023. Despite being a neighbouring country and this being a relevant factor, the truth is that France is not one of the main countries sending posted workers to Spain: it accounted for barely 8% of the total number of postings in 2021, and 6% in 2023.

One idea underlies the analysis of incoming postings to Spain: posted workers are sent from virtually all EU/EFTA Member States, but only six countries account for a significant proportion of the total. **The main countries of origin (Portugal, Germany, Italy and France)** are followed by Romania in fifth place and Poland in sixth, although none of them account for 5% of the total number of postings reported through the existing notification tools in the AA.CC. between 2021 and 2023.

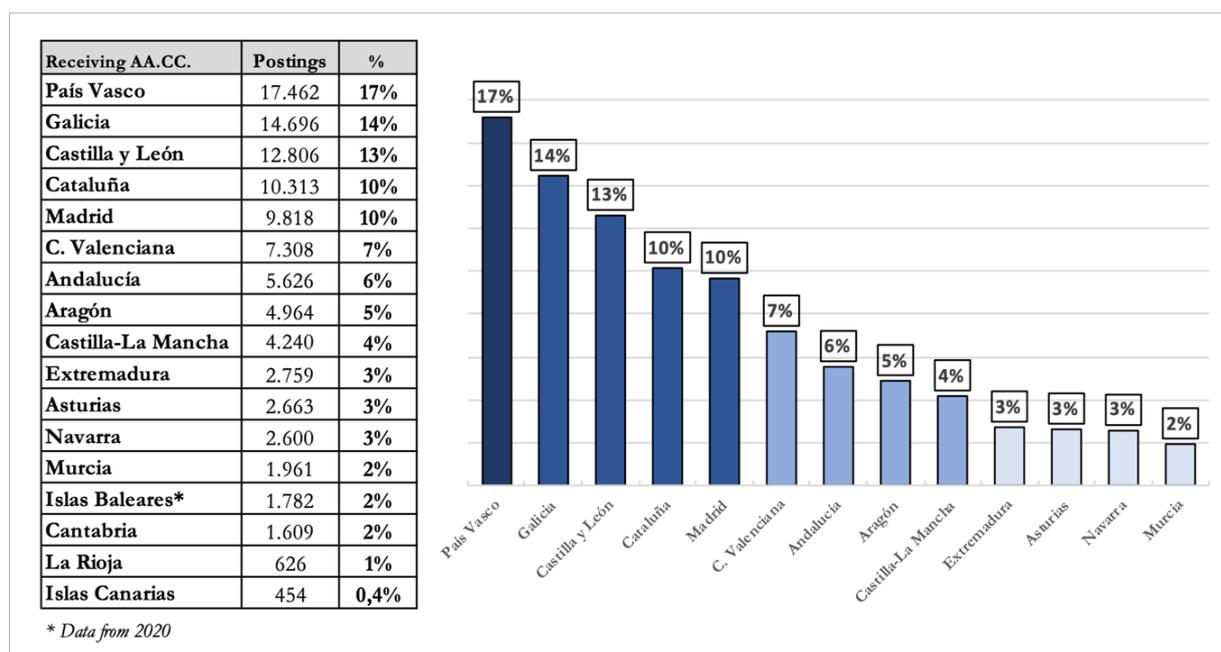
Once again, as was the case in our research for the *Posting.stat.*, even though the project and research requested data from the AA.CC. and emphasised the importance of providing data on the nationality of posted workers, very few provided this information (only three). Therefore, we cannot offer representative and conclusive results on the nationality of people posted to Spain. However, the data available confirms that in many cases, the posted workers' Member State of origin is the same as that of the company performing the posting. We can also note that there are few TCN posted workers to Spain by a TEA (5-8% of the total). The limited data available shows that this circumstance occurred mainly in postings from Portugal: during the period analysed, workers from Brazil, Colombia, Guinea-Bissau, Peru and Ukraine were posted from this country to Spain.

It should be emphasised here that, as clarified in Instruction DGI/SGRJ/O8/2008 of the Ministry of Labour and as follows from Article 6.2 d) of Law 45/1999, **TCN workers do not need authorisation to work in Spain provided that the work is carried out in their capacity as intra-EU posted workers**. However, they must provide proof of authorisation to work in the Member State of establishment, of which they are part of the labour market and to which they return once the provision of services has ended.

4.4.2. By Autonomous Community of destination

In order to analyse the particularities of incoming posting to Spain, it is relevant to examine the destination where the companies and the posted workers theoretically provide their services and to relate this to the State from which they were sent. In this regard, although **the majority of companies and workers come from Portugal** and are predominantly present in numerous Autonomous Communities, this pattern is not uniformly reproduced throughout Spanish territory. Contrarily, there are territorial areas with clearly differentiated characteristics, which are mainly due to factors related to the need for labour in a particular sector of activity or to geographical location, with neighbour being a key factor. For example, most workers who were posted to Galicia worked in the construction and industrial sectors, while most of those who were sent to Islas Baleares (data from 2020) work in the service sector and come from Switzerland and Germany.

Figure 33. Postings to Spain and % of total, by destination Autonomous Community (2023)



Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat* and *Posting.stat 2.0* projects

As can be seen in the table and graph included in Figure 33, in 2023, País Vasco (17%), Galicia (14%), Castilla y León (13%), Cataluña (10%) and Madrid (10%) were the territories with the highest number of reported postings: these four Autonomous Communities accounted for 65% of the total. In a second group are Comunidad Valenciana, Andalucía, Aragón and Castilla-La Mancha: between them, they accounted for 22%. Finally, the regions of Extremadura, Asturias and Navarra account for 8% of all notifications of postings received in Spain. In percentage terms, these figures are similar to those obtained in our research for the years 2018-2021, except for the Autonomous Communities of Aragon and Navarra, which have fallen a few places. However, the most significant factor is the overall increase in the number of notifications, companies and workers reported in Spain.

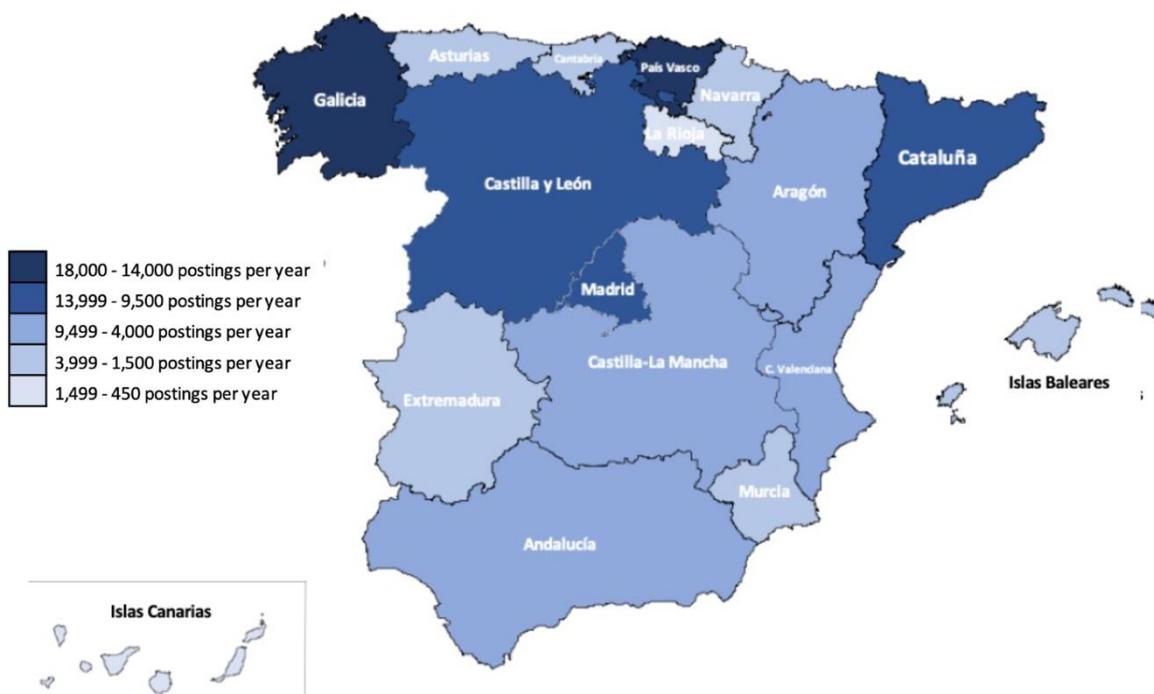
Table 21. Total number of companies, cases and posted workers notified, 2019 vs. 2023

| | 2019 | 2023 | INCREASE |
|------------------------------------|--------|---------|------------|
| Notification files | 7,165 | 18,497 | 2.6 |
| Companies/service providers | 1,497 | 3,385 | 2.3 |
| Posted workers | 14,602 | 48,511 | 3.3 |
| Postings | 30,664 | 101,686 | 3.3 |

Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat* and *Posting.stat 2.0* projects.

As can be seen in Table 21, in 2019 a total of 1,497 service providers submitted 7,165 notification files covering 14,602 workers subject to posting. As we have already seen, **in 2023, these figures tripled**, with a total of 3,385 companies submitting 18,497 files to post 48,511 people. This increase is mainly due to the fact that, firstly, in 2019 we did not have data from four Autonomous Communities (Andalusia, Castilla y León, Murcia and Islas Canarias), which could account for around 50,000 additional postings in that year; secondly, because, in general, we believe that more and more companies are complying with the obligation to report the posting of workers to Spain (probably thanks to increased action by the ITSS and improvements in the prior notification tools available) and thirdly, because in the last five years, the total volume of postings between EU/EFTA countries has grown, including postings to Spanish territory (De Wispelaere, De Smedt & Pacolet, 2025: 30).

Figure 34. Spatial distribution of incoming postings, by AA.CC. (2023)



Source: Administrative data obtained from the Autonomous Communities within the framework of the *Posting.stat 2.0* project

4.4.3. By sector of activity

The distribution by sector of activity of companies that posted workers from an EU/EFTA Member State to Spain and notified the posting of workers to one of the Spanish Autonomous Communities shows that, for the year 2023, **construction (47%) and industry (24%) were the predominant activities in which companies that posted workers to Spanish territory provided services.** The service sector accounted for approximately 22% of total postings and the agricultural sector for 6%. The sub-analysis by AA.CC. for 2023, which can be seen in the following table, shows that construction and industry account for the majority of postings in 11 of the 16 regions considered (we do not have data of Murcia), i.e. in the vast majority. However, this is not the case in regions such as Cataluña, Islas Baleares and Islas Canarias, where the service sector accounted for 56%, 60% and 70% respectively of all postings to their territory.

Table 22. Posting of workers to Spain by sector of activity and receiving AA.CC, 2023 (% of total)

| AA.CC. /SECTOR OF ACTIVITY | AGRICULTURE | CONSTRUCTION | INDUSTRY | SERVICES |
|---------------------------------|-------------|--------------|----------|----------|
| Andalucía | 2 | 68 | 20 | 10 |
| Aragón | 45 | 30 | 15 | 10 |
| Asturias | 1 | 37 | 47 | 15 |
| Islas Canarias | 0 | 15 | 25 | 60 |
| Cantabria | 0 | 58 | 32 | 10 |
| Castilla y León | 5 | 68 | 17 | 10 |
| Castilla-La Mancha | 8 | 55 | 21 | 16 |
| Cataluña | 1 | 12 | 31 | 56 |
| Comunidad Valenciana | 6 | 45 | 24 | 25 |
| Extremadura | 20 | 42 | 26 | 12 |
| Galicia | 1 | 79 | 10 | 10 |
| Islas Baleares (Data from 2020) | 2 | 25 | 3 | 70 |
| La Rioja | 2 | 48 | 35 | 15 |
| Madrid | 1 | 51 | 28 | 20 |
| Murcia (No data available) | - | - | - | - |
| Navarra | 1 | 62 | 20 | 10 |
| País Vasco | 1 | 54 | 35 | 10 |

| SECTOR OF ACTIVITY | AGRICULTURE | CONSTRUCTION | INDUSTRY | SERVICES |
|----------------------|-------------|--------------|------------|------------|
| % TOTAL SPAIN | 6% | 47% | 24% | 22% |

Source: Administrative data obtained from the Autonomous Communities within the framework of the *Posting.stat 2.0* project.

As can be seen in Table 22, there is a fairly balanced distribution between postings to Spain in 2023 in the industry and services sectors. However, **construction accounts for the majority of the posted workers**, and agriculture represents only 6% of the total postings reported to the regional labour authorities. Going into more detail and linking the destination of postings in Spain with the country of origin or establishment of the companies, we can note and add to what has already been mentioned in previous sections that most of the postings reported to the AA.CC. of Asturias, Cantabria, Galicia, Castilla-La Mancha, Castilla y León, Andalucía, Extremadura, Madrid, País Vasco, La Rioja, Comunidad Valenciana and Navarra were

originated in Portugal. In all these cases, moreover, the predominant economic sector or activity (between 40% and 80%) was construction (building and infrastructure) and industry (metallurgy, machinery installation, industrial assembly and welding).

For their part, the companies that relocated to the Autonomous Community of Aragon came from Portugal (41%), Romania (20%), Germany (15%), Italy (10%), Poland (5%) and other countries (10%). Although construction (infrastructure and metal structures), industrial (installation of machinery, wind farms and photovoltaic plants, among others) and service activities accounted for a significant number of postings. The fact is that in this AA.CC., which has three provinces (Huesca, Zaragoza and Teruel), the agricultural sector reported the highest number of postings (48% of the total), almost all of which originated in Romania. These posted workers were mainly sent to the provinces of Zaragoza and Teruel by an entity registered as SC EUROFRUTAS TEMPORAR, SRL., established in Bucharest and advertised as a "staff leasing" company¹²⁷.

The situation described is similar to that in the provinces of Huelva and Almería (Autonomous Community of Andalucía) and also in the AA.CC. of Murcia, where there is a high level of agricultural activity, particularly in the production of fruit and vegetables. Unfortunately, no data is available on the notifications received in Murcia, and the data received from Andalucía indicates that only 2% of all postings to this region (less than 100) were to agricultural sector. We find this situation to be strange, especially considering that the information received from the ITSS and our first report within the framework of the *Posting.stat.* project, which reveals that a significant number of infringements committed in Spain in relation to the posting of workers, at least in the 2018-2021 period, were committed by Romanian employers who posted workers to Andalucía to provide services in the agricultural sector (Carrascosa & Contreras, 2022: 68).

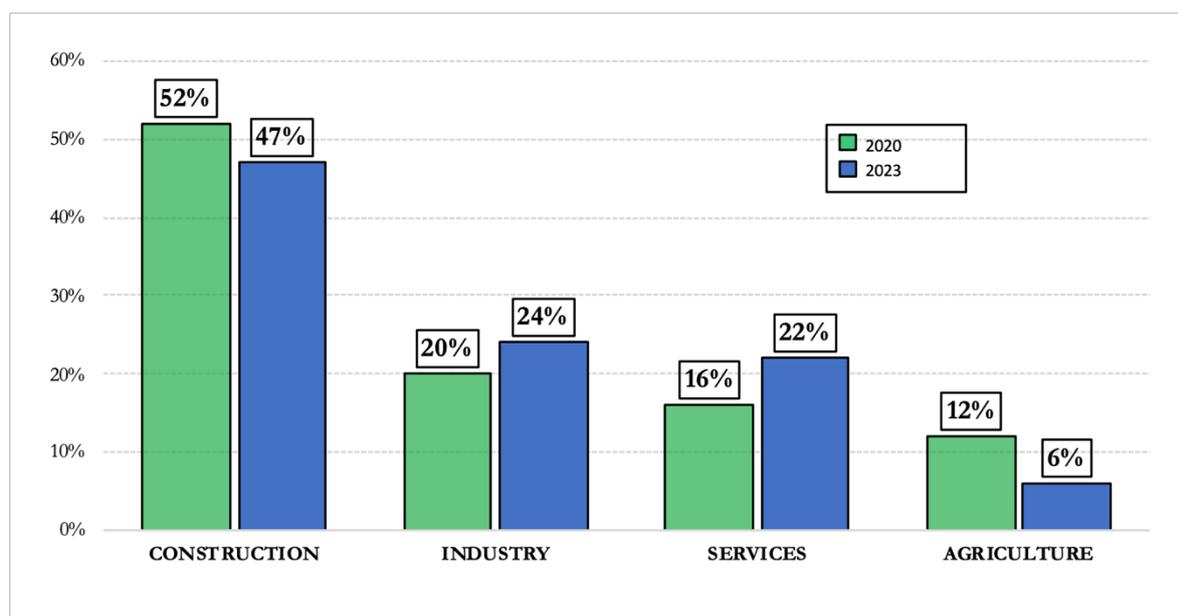
Finally, **regarding postings to the agricultural sector**, the sub-analysis shows that most of them originated in Romania and their main destination in Spain was Aragon (where this sector accounts for 45% of the total) and also, although in significantly lower numbers, Extremadura (20%), Castilla-La Mancha (8%), Comunidad Valenciana (6%) and Castilla y León (5%). According to our experience and previous research, there are a significant number of intra-EU and/or TCN workers in these territories, as well as in the regions of Murcia and Andalucía, where the agricultural sector is labour-intensive and often relies on companies and seasonal workers from other Member States (Carrascosa and Contreras, 2025: 125-138). However, it should be noted that most of them are not posted workers, but rather migrant workers who exercise their right to free movement of workers (EU citizens, especially from Romania, Bulgaria and Portugal) or third-country nationals (mainly from Morocco, Brazil, Senegal and Ukraine) hired by Spanish companies in their country of origin with pre-established working and social conditions (Law 4/2000).¹²⁸

Although we only have data for the 2018-2021 period, another unique case, which differs from the trend followed in the other AA.CC., is that of Islas Baleares: the companies and workers posted to this territory mainly come from Switzerland and Germany, although they also originate from Portugal and Italy to a lesser extent. A large percentage (70%) of these postings are linked to the service sector (hospitality and related services) and construction (25%). The situation is similar in the Islas Canarias, where 60% of all postings occurred in the service sector. Finally, it should be noted that, although the Autonomous Communities of Cantabria, País Vasco, Madrid and Comunidad Valenciana have the highest number of postings of workers from Portugal (between 40% and 60%), they also have, to a lesser extent, postings of workers from Germany, Italy, France, Poland, Romania and the UK, accounting for between 20% and 30% of the total.

¹²⁷ <http://eurofrutas-temporar.com>

¹²⁸ Although there are no statistics specifically recording the number of seasonal workers entering and leaving Spain each year, social security affiliation figures show that more than 229,000 foreign workers were included in the special agricultural system in December 2023, almost 80% of them from third countries and 20% from EU countries. See TGSS statistics database: Registered workers: <https://w6.seg-social.es/PXWeb/pxweb/es/Afiliados%20en%20alta%20laboral/>

Figure 35. Sectors of activity of posted workers to Spain, 2020 and 2023 (% of total)



Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat 2.0* project

The aggregate analysis of the posting notifications reported in Spain during 2023 provides an overview of the **sectors of activity in which the posted companies and posted workers provided services** in a period marked by widespread growth in postings between EU/EFTA States since 2020 (De Wispelaere, De Smedt & Pacolet, 2025: 10). Figure 35 shows the comparative distribution of postings by sector of activity, which does not vary significantly from previous years (2018-2020). We can see that in 2023, 47% of postings were in the construction sector, 24% of the total in the industrial sector, 22% in the service sector and 6% in the agricultural sector. The latter sector has halved the volume of postings compared to 2020, a circumstance that can be explained, in part, by the fact that 2023 was a bad year for agriculture in Spain primarily due to the absence of rain and high temperatures that caused drought and poor harvests, especially in grain, olive and vine cultivation¹²⁹.

It is important to make some clarifications regarding the sectoral distribution of incoming postings to Spain in 2023: The first is that construction activities carried out by posted workers are sometimes contracted by local companies (end customers, intermediaries or contractors) whose main activity is not construction, but who hire a foreign company to build their facilities or collaborate in other activities that are part of the production chain¹³⁰. In this case, the postings are linked to the construction sector, but the client companies do not belong to this sector. The second nuance also has to do with construction activities, and that is that we have detected that several Spanish clients contract activities that require the posting of workers from other Member States to carry out initial installation and/or maintenance of machinery. However, some AA.CC. consider them indiscriminately (without a well-defined criterion) as activities carried out in the construction sector, the industrial sector or the service sector. This scenario highlights the relevance of distinguishing between the activity of the clients and the activity carried out by posted workers to accurately measure the impact of the posting of workers, but this is not currently the case in Spain. Fortunately, since January 2025, there has been a centralized prior notification tool available to the competent institutions **that requires service providers to specify this information** when submitting a posting notification.

¹²⁹ See: <https://elpais.com/economia/2023-09-10/la-sequia-asfixia-al-campo-nunca-habiamos-tenido-un-ano-tan-catastrofico.html>

¹³⁰ For more information on this, see section 2.1.4 of this report: *Posting and subcontracting chains in the construction sector*

Since the central register was not operational when we submitted our request for data to the Autonomous Communities (July 2024), in order to have more elements for analysis, we requested information on the type of posting declared by the company that posted workers to Spain (subcontracting, intra-group/intra-company or TEA). However, a significant number of them did not provide any data in this regard. However, from those that did, it can be concluded that the posting linked to a contract between companies (subcontracting, according to Article 3.1a of Directive 96/71/EC) represents approximately 92% to 95% of the total transnational services provided to Spain that include workers. Intra-group postings account for only 3-5% and those carried out by TEAs for the remaining 2-3%. These figures, or at least the available data (with all their limitations), show that the activity of TEAs established in other States that send posted workers to our territory is low and occurs in only 2-3 activities.

4.4.4. The case of postings to Spain by temporary employment agencies

As explained in Chapter 2, TEAs established in other EU/EFTA Member States may temporarily assign their workers to user companies established or operating in Spain. Until January 2025, all companies carrying out the posting of workers to Spain were required to notify the labour authority of the AA.CC. where they were to provide services if the posting was carried out within the framework of subcontracting, if it was carried out between companies belonging to the same group, or if it was carried out by a TEA (Art. 2.1 Law 45/1999). However, failure to provide this information did not prevent the notification from being submitted, which has meant, as we have seen in our fieldwork and data analysis, that many notifications did not include this information and, as a result, a large part of this data is not available. Only since January 2025 has the central register in Spain (*Law 45 Portal*) required to posting companies to indicate whether the posting is carried out within the framework of a TEA assignment when submitting the notification. If they do not indicate this, the application does not allow the file to be submitted.

Despite not having data from many of the AA.CC. on the postings carried out by TEA established in other Member States during 2023, the fact is that some regions did collect this data and provided us with information on this subject (Extremadura, Galicia, Madrid, Cataluña, Andalucía and Navarra). The most significant aspect of this data is that in 2023, approximately 200 workers were sent to these regions by foreign TEAs. For example, 17 posted workers were sent to Galicia (3 from Germany by the TEA Brunel GmbH¹³¹ to provide services in the automotive sector and 14 from Portugal to work in the construction sector). In the case of Cataluña, a total of 9 TEAs established in Italy (80%), Germany (18%) and Croatia (2%) posted 56 workers to this region (2% of the total number of postings to this AA.CC.). Specifically, the Italian TEA that carried out the most postings of workers to Cataluña was Manpower, SRL, followed by the German TEA Brunel GmbH. The sector in which most of the services were provided was industry, mainly in the automotive subsector. 7 Posted workers were sent to Madrid by TEAs: 3 from Germany, 3 from Italy and 1 from Switzerland (all white-collar workers: technicians and engineers). Meanwhile, 94 people were sent to Andalucía, most of them third-country nationals from Ukraine (39), Belarus (35), Nigeria (5) and the Philippines (4), who mainly worked in agricultural activities. Unfortunately, the Andalusian labour authority did not provide us with identifying data on the TEAs or their place of establishment. The case of Navarra, where TEAs work accounted for 1.4% of all posted workers sent to this territory, differs from the trend in other regions in terms of the country of origin of TEAs. Together with Germany, Romania sent the majority of TEA workers mainly to the Spanish agricultural sector.

¹³¹ This labour supply company is based in the Netherlands but has establishments in 17 EU Member States, including Germany. Behind all the postings from Germany to various Autonomous Communities in Spain, we find this TEA as the employer, mainly of white-collar workers (technicians and engineers) destined for the automotive sector. See: <https://www.brunel.net/en>

Table 23. Available data on TEA workers postings to Spain (2023)

| | Galicia | Cataluña | Madrid | Andalucía | Navarra | Extremadura |
|--|------------------------|-----------------------|-------------------------|-------------------------|----------------------|-------------|
| Total number of posted workers | 6,998 | 4,911 | 4,675 | 2,697 | 1,238 | 1,314 |
| Posted by TEA | 17 | 56 | 7 | 94 | 17 | 0 |
| % of total | 0.2 | 1.1 | 0.2 | 3.5 | 1.4 | 0 |
| Total TEAs that send posted workers | 4 | 9 | 6 | <i>No data</i> | 2 | 0 |
| Average duration (months) | 5 | >1 | 4 | <i>No data</i> | 3 | - |
| Main countries of origin | Portugal Germany | Italy Germany | Germany Italy | <i>No data</i> | Romania Germany | - |
| Main nationality of posted workers | Portuguese | <i>No data</i> | <i>No data</i> | Ukrainian Belarusian | Romanian | - |
| Type of workers | Construction labourers | Technicians & welders | Technicians & engineers | Agricultural workers | Agricultural workers | - |

Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat 2.0* project

Although the six AA.CC. that have provided data on **postings of workers to Spain account for 45% of all postings of workers**, we cannot take this data as representative because we do not have disaggregated information, for example, from Murcia, Comunidad Valenciana, Castilla-La Mancha, Castilla y León or País Vasco, territories in which there are a significant number of incomings postings, and it is foreseeable that at least some of them are carried out by foreign TEAs. In any case, the figures included in the Table 23 show the reality of six regions with a high number of postings which can be considered an approximation of the reality until we have more data from future research thanks to the implementation of the central (electronic) register of postings regarding the basic characteristics or trends of postings made by foreign TEA to Spain.

In any case, it can be said that **few TEAs send workers to Spain and few workers are sent from other Member States** (generously estimated, they represent barely 2% of the total number of incoming postings to Spain). Regarding the nationality of the posted workers, it is not possible to establish a common pattern with the available data, but we can do so with regard to the type of workers and the origin of the posting: most of the posted workers come from Germany (technicians and engineers), Portugal (posted to the construction and metal industry sectors) and Romania (agricultural labourers).

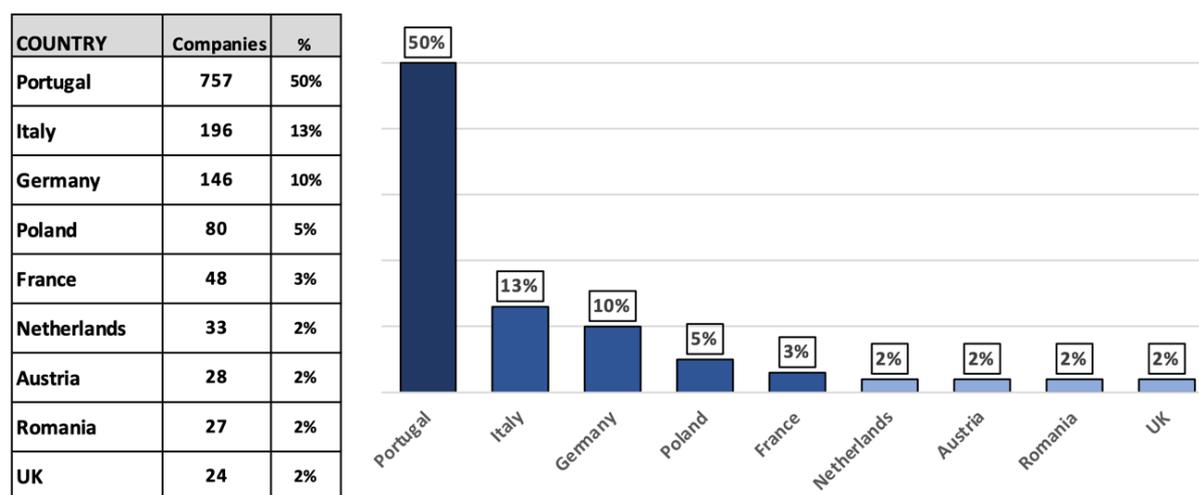
Although we have few data from the receiving perspective, from the sending perspective, the data collected on temporary work under PDs A1 (Art. 12) issued by the competent authorities of each Member State complement this and allow us to verify some hypotheses. One of these is as follows: Germany is one of the countries that performs the most posting of TEA workers to our territory. In 2023, Spain received a total of 784 posted workers by TEAs from Germany (Danaj, Gillis, Geyer, De Wispelaere & Bilitza, 2025: 26). This figure is consistent with our calculations and confirms some of the findings obtained from the analysis of the data provided to us by the Autonomous Communities of Extremadura, Galicia, Madrid, Cataluña, Andalucía and Navarra.

4.4.5. The case of subcontracting chains in the construction sector

As we anticipated in Chapter 2, the Register of Accredited Companies (REA) is a key administrative tool for empirically approximating the presence of companies, including companies established in other states, within subcontracting chains in the Spanish construction sector, albeit with important limitations that must be considered. The registration proves necessary for companies seeking to be contracted or subcontracted for construction projects and is managed by regional labour authorities. This allows for public consultation on a company-by-company basis but does not offer (in a systematic and updated manner) aggregate series that allow for observation of their general evolution or their composition by nationality¹³². This shortcoming contrasts with the evidence that, as early as 2008, the Spanish Government was disseminating overall figures (more than 60,500 companies registered at that time, broken down by region),¹³³ suggesting that there are, or have been, statistical capabilities that have not been consolidated into a regular publication. In 2025, in fact, a specific request was registered on the Spanish Government's open data portal to obtain REA listings, reinforcing the idea of unmet demand for aggregate data that can be exploited for research and public control¹³⁴.

The inability to access the data forced us to contact with the MTES itself, which, after some consultations and requests, provided us with the data to prepare this report. The *Excel* files provided show us a snapshot of the situation at a specific point in time (December 2024). Once again, it is important to note that registration in the REA is a requirement for companies to work in Spain, but it can be done without ever actually providing the work. Furthermore, registration is for a limited period (three years, extendable upon proof of compliance with the requirements) without companies having any obligation to notify their removal from the register. In any case, the data collected within the framework of the *Posting.stat* project, which we have summarised below, allows us to at least describe the potentially transnational footprint in subcontracting chains in the construction sector in Spain by analysing foreign companies registered in the REA at a specific point in time (December 2024).

Table 24. Main countries of origin of foreign companies registered in the REA, December 2024



Source: Administrative data obtained from the Autonomous Communities within the framework of the *Posting.stat 2.0* project

¹³² Electronic access to the Register of Accredited Companies.

¹³³ <https://www.inclusion.gob.es/w/mas-de-60.500-empresas-ya-se-han-inscrito-en-el-registro-de-empresas-acreditadas-en-la-construccion>

¹³⁴ <https://datos.gob.es/es/solicitud-de-datos/listado-de-empresas-del-rea-httpsxpinterwebmitesgobes>

As we can see in Table 24, in **December 2024 there were 1,503 foreign companies registered in the REA**. The distribution of foreign company registrations by country of origin reveals a very marked concentration, especially from Portugal (757 companies; 50.4%). Alongside this, Italy (196; 13.0%), Germany (146; 9.7%), Poland (80 companies; 5.3%) and France (48; 3.2%) are the Member States that rank among the top. This pattern is consistent with the idea that geographical proximity and the intensity of economic relations seem to play a central role.

In terms of the ability to operate in a chain within the framework of subcontracting, it is particularly relevant that the vast majority of these companies are listed in the REA as subcontractors: 83.9% (1,261 companies), compared to 12.7% as contractors (191) and 3.4% with a dual role (51). This data fits with our hypothesis that the lower links concentrate a large part of the material execution of the projects and, with this, greater risks of outsourcing responsibilities and competitive pressure via labour costs; However, it also introduces a relevant transnational characteristic: the majority subcontractor profile of registered foreign companies suggests that their participation (and, by extension, their potential to displace personnel) is mainly located in the lower links of the chain, where problems of compliance with obligations and effective control tend to intensify.

The **territorial distribution**, using the AA.CC. of registration in the REA as the unit of analysis, also reveals a high degree of geographical concentration in a limited number of territories: Galicia accounts for 29.1% (437 companies), followed by Castilla-La Mancha (16.2%; 244) and Castilla y León (9.8%; 147 companies). Next come to País Vasco (7.9%; 118), Comunidad Valenciana (7.1%; 106 companies) and two territories with equal figures, Islas Baleares and Aragon (6.3%; 95 companies each). This pattern becomes more significant when crossed with the country of origin: in the case of companies established in Portugal and registered in the REA, Galicia hosts 403 of the total 757 Portuguese companies (more than half), suggesting a very marked pattern of establishment in the north-western strip, consistent with proximity (neighbouring countries) and cross-border recruitment circuits. In contrast, regarding companies from Italy, Comunidad Valenciana (53) and Castilla-La Mancha (44) stand out as the main territories of registration, while Germany shows a striking concentration in the Islas Baleares (41), followed by Castilla-La Mancha (25).

These differences are useful within our national report because they allow us to establish hypotheses and/or draw conclusions about some of the reasons for the relocation of foreign companies to Spain, which operate, specifically in the construction sector: 1) certain flows respond to proximity (Portugal-Galicia), 2) others seem to be connected to regional construction/market niches (e.g. Islas Baleares in certain service subsectors) and 3) the REA may be providing evidence not only of the existence of foreign companies that are registered and actually provide services in the sector, but also of administrative implementation strategies linked to the declared registered address or the mode of entry into the Spanish market.

Table 25. Main activities (NACE) declared in the REA, December 2024

| NACE | ACTIVITY | NO. OF COMPANIES | % |
|------|--|------------------|------|
| 4399 | Specialised construction activities | 1038 | 69.1 |
| 4101 | Construction | 73 | 4.9 |
| 3320 | Repair and installation of machinery and equipment | 68 | 4.5 |
| 2025 | Manufacture of machinery and equipment | 41 | 2.7 |
| 4321 | Electrical installations | 33 | 2.2 |
| 4350 | Civil engineering | 33 | 2.2 |
| 4324 | Other installations in construction works | 31 | 2.1 |
| 2511 | Metal structures | 23 | 1.5 |

Source: Administrative data obtained from the MTES within the framework of the *Posting.stat 2.0* project

Analysis by economic activity (NACE) confirms that the participation of foreign companies is mainly concentrated in traditional subcontracting activities: specialised construction activities account for 69.1% (1,038 companies) and, if building construction (4.9%; 73) is added, this represents approximately 74% of the total strictly in the construction sector. The next level includes complementary or technical-industrial support activities that can be integrated into the project via specialised contracts (repair and installation of machinery and equipment, manufacture of machinery and equipment, electrical installations, civil engineering, etc.). This sectoral pattern reinforces the idea that the REA, at least for foreign companies, mainly identifies companies that are likely to be involved in construction as specialists (foundations, structures, concrete, roofing, metalwork, installations), i.e. precisely those subsectors where chains tend to have more levels and where compliance monitoring (wages, working hours, occupational risk prevention, travel documentation) is more demanding.

In this context, the empirical pattern observed, i.e., foreign companies that are mainly subcontractors, concentrated in specialised construction activities and with non-random territorial distributions, points to a well-known regulatory risk area: where cascading subcontracting and transnational service provision coincide, there is an increased need for document control, inspection coordination and payment/affiliation guarantees, especially if the company performing the posting of workers operates on a temporary basis.

In short, it must be acknowledged that the REA is a mandatory register for contractors and subcontractors and serves as formal proof of compliance (organisational capacity and occupational risk prevention). However, significant weaknesses have been detected, including the fact that registration does not equate to material compliance and that there are companies operating without registering¹³⁵. This requires methodological caution in the use of this data. The REA serves to identify the formal presence of foreign companies in the construction sector in Spain (and, therefore, a base of companies with the capacity to post workers), but it does not allow us to precisely know the actual level in the chain, the specific work, the volume of activity, or whether there was actually posting of workers in each case. Even so, as the most plausible evidence, our analysis provides three clear conclusions. First, there is a significant number of foreign companies registered in the REA (more than 1,500 companies); secondly, this presence is dominated by a few countries (especially Portugal); and thirdly, the profile is predominantly that of subcontractors and specialists, which reinforces the idea of their insertion into chains where the risks of outsourcing responsibilities and non-compliance associated with posting are greater. All of this empirically supports the relevance of analysing subcontracting and posting in the construction sector together and illustrates why, almost two decades after the creation of the REA, the existence of rules and registers is not sufficient without adequate and appropriate control measures.

4.4.6. By duration of the posting

Regarding the duration of postings declared through the prior notification tools available in the AA.CC. in 2023, the data show, first of all, that **long-term postings account for only 6% of the total** and, therefore, do not represent the existing pattern in the posting of workers to Spain, but rather are isolated cases that are also distributed fairly evenly across the different sectors of activity and in almost all the regions for which information is available (all except Islas Canarias and Asturias, which did not provide data on the duration of postings). However, a notable exception can be observed in the case of Galicia, where there was a context of intensive postings in the construction sector, mainly originating in Portugal, with an average duration of more than five months, clearly above the national average.

¹³⁵ One example is SEROLMETAL, LDA., a company established in Portugal and operating in the Spanish construction sector, which is not registered in the REA, at least not in December 2024.

Table 26. Average duration of postings reported to the AA.CC., 2023

| DURATION OF POSTING | % OF TOTAL | MAJORITY SECTORS BY DURATION |
|--------------------------------|------------|------------------------------|
| Between 9 days and 1 month | 19 | Services and industry |
| Between 1 month and 3 months | 39 | Construction and agriculture |
| Between 3 and 6 months | 27 | Construction and TEAs* |
| Between 6 months and 12 months | 9 | All sectors |
| Longer than 12 months | 6 | All sectors |

Source: Administrative data obtained from the AA.CC. within the framework of the *Posting.stat 2.0* project. *Data from only 4 AA.CC.

As shown in the table above, most postings of workers to Spain last between one and six months (66% of the total), with the most common being postings lasting between one and three months (39% of the total) and almost 20% lasting less than one month. These figures are similar to those obtained for the period 2018-2021 (Carrascosa and Contreras, 2022: 56).

Sectoral analysis also allows us to identify different patterns depending on the type of economic activity. In assignments in the service sector, especially in administrative, scientific, technical and business support activities, and in the industrial sector, with a particular focus on the machinery installation, maintenance and repair subsector, the average duration of assignments did not exceed 15 days of actual service provision in a significant number of cases. This data confirms the importance of the posting of workers for the provision of technical or highly specialised services associated with short and recurring interventions.

In contrast, **in the construction sector, the average duration of assignments** for the whole of the country was between 3 and 4 months. However, there are significant regional differences, as in AA.CC. such as Extremadura and Galicia, both neighbouring Portugal, there were a considerable number of postings of more than 6 months in the construction sector, suggesting the existence of longer-term projects or more continuous use of posted workers in certain border areas.

In aggregate terms, the data show that only 15% of the postings reported in 2023 exceeded six months in duration, with those exceeding twelve months being clearly insignificant (6%). In comparative terms, 2023 shows a similar, although slightly higher, average duration of postings than what was observed in 2020. However, this comparison and the interpretation of the results should be made with caution, as the figures for 2020 do not include all the Autonomous Communities and were also affected by the impact of the COVID-19 pandemic, which led to the suspension or cancellation of numerous ongoing postings, as well as a general reduction in both their duration and total volume.

Again, it should be noted that the Spanish regulatory framework excludes postings of less than 8 days (except for TEAs) and the postings in the road transport sector from the prior notification requirement. These exclusions make it impossible to know the exact average duration of all postings actually carried out in Spain (declared and undeclared) and predictably tend to underestimate the frequency of very short-term postings.

Despite these limitations, the average duration resulting from the analysis of the data provided by the AA.CC. can be described as relatively short (less than four months) and is fully consistent with the estimates available at European level: research carried out by De Wispelaere, De Smedt and Pacolet (2025: 35), based on the analysis of PDs A1 (Art. 12), puts the average duration of intra-EU/EFTA postings in 2023 at around 110 days, i.e. also less than 4 months.

To conclude this section, it should be noted that the results relating to the duration of postings to Spain must be interpreted through the lens of a structural feature of the posting of workers in the EU: the repetition of postings throughout the same year. As discussed in other sections of this report, a significant number of posted workers to Spain and also to some of the countries with the highest occurrence of posting (Germany, Belgium, Austria and France) are sent on two or even three times a year, which partly explains why the individual duration of each posting is relatively limited, usually between two and four months, without this implying a sporadic or marginal transnational presence.

5. Control of posting in Spain

The control of posting from and, mainly, to Spain is carried out primarily through the State Labour and Social Security Inspection Agency (OEITSS) attached to the Ministry of Labour and Social Economy, which, as its name suggests, is responsible for monitoring compliance with labour regulations, preventing occupational risks or hazards and ensuring TCNs right to work in Spain or, for example, ensuring correct insurance and collection of social security contributions. In short, it has a very broad scope of action.

The OEITSS is expressly responsible for monitoring and enforcing Spanish legislation transposing the Directives on the posting of workers, particularly the Enforcement Directive 2014/67.¹³⁶ The regulations on posting (Law 45/1999) and the regulations governing the OEITSS refer to its central role in terms of obligations of cooperation and mutual assistance with other national administrations,¹³⁷ such as the TGSS itself in cases of doubt about the veracity of foreign PDs A1 or their absence. It also coordinates with road transport inspectors who work alongside state and regional law enforcement agencies to control this specific type of mobility. Coordination is also international with EU bodies, and even other national inspectorates, with the support of the European Labour Authority (ELA).¹³⁸

With regard to coordination, the **Special Coordination Unit for Combating Fraud in Transnational Work**, created in 2020¹³⁹ and also known as "EU Mobility," is very important. The mission of this unit is to coordinate all Spanish administrations involved in the posting of workers from a labour, tax and social security perspective,¹⁴⁰ promoting the signing of collaboration agreements between the OEITSS and regional and national public bodies involved in this phenomenon (TGSS, INSS, SEPE, Ministry of Transport, AEAT)¹⁴¹. Furthermore, in line with the provisions of the **ITSS Strategic Plan 2021-2023**,¹⁴² which once again included the fight against fraud in transnational work as an objective,¹⁴³ this Unit promoted the creation and implementation of a **Central Electronic Register** of all posting notifications received by the Spanish authorities in 2025, in collaboration with the AA.CC. This register currently overlaps with regional notifications in order to promote the control and fight against illegal posting in Spain. In this regard, it would also be advisable to create a national database on posting that could be connected to the databases of other countries in the future, which would facilitate the control of fraud in posting.¹⁴⁴ Inspection campaigns have continued to focus on key sectors such as **international transport** and **construction**, which account for a very high percentage of intra-EU mobility.¹⁴⁵

On the other hand, the Unit also acts as the liaison office with the ELA, handling the exchange of information and administrative cooperation with other Member States through the IMI system. The staff assigned to this task consists of labour inspectors who are experts in transnational fraud and who participate in and coordinate the ITSS's own interventions in this area, including joint or coordinated inspections with other countries. In effect, the EU Mobility Unit acts as a liaison with the ELA, participating in joint inspections. Besides, with ELA's funding to generate capacity building,¹⁴⁶ Workshops and training sessions have been held, bringing together other national social security inspectorates and institutions with which Spain has a special relationship (Portugal, France and Italy, among other States). One of the main objectives of these actions has been to create a useful database for monitoring incoming movements based on the

136 Directive 2014/67, on which the OEITSS issued an exhaustive Technical Criterion 97/2016 on posting https://www.mites.gob.es/itss/ITSS/ITSS_Descargas/Atencion_ciudadano/Criterios_tecnicos/CT_97_2016.pdf. The transposition of the Enforcement Directive facilitated the work of the OEITSS by requiring companies conducting the posting of workers in Spain to identify a contact person to liaise with the Spanish authorities and provide access to the required documentation, even after the posting has ended, which is a clear improvement in this regard. Law 45/1999, Articles 5.1, 5.2 and 6.

137 Posting Law 45/1999, Articles 8 and 9

138 Law 23/2015 Art. 13.2 - from RDL 7/2021 Art. 14

139 Order TES/967/2020, of 6 October, available at: <https://www.boe.es/eli/es/o/2020/10/06/tes967/con>

140 The labour authorities of the Autonomous Communities or the Ministry of Labour, the Tax Agency, the Public Prosecutor's Office, the TGSS (responsible for issuing the PD A1 and in charge of worker registration and contributions), but also the entities that manage benefits, such as the National Social Security Institute (INSS) or the Public Employment Service (SEPE).

141 See actions 4.2 and 4.3 of the ITSS Strategic Plan 2021-2023.

142 Resolution of 29 November 2021, of the Secretary of State for Employment and Social Economy, publishing the Agreement of the Council of Ministers of 16 November 2021, approving the Strategic Plan of the Labour and Social Security Inspectorate 2021-2023. Available at: <https://www.boe.es/eli/es/res/2021/11/29/11>

143 See objective 4 of Axis 1.1. on decent, safe and healthy working conditions. ELI: <https://www.boe.es/eli/es/res/2021/11/29/11>

144 See Strategic Plan Objective 4. 5th.

145 Action 4.3

146 <https://www.ela.europa.eu/en/activities/training-and-capacity-building>

information on PDs A1 received by the Spanish social security system through EESSI, along the same lines as the French inspection, which followed in the footsteps of Belgium. The aim is to facilitate the planning of inspection campaigns on labour mobility, which seems to assume a certain failure in the virtuality of the posting notifications provided for in the Enforcement Directive or via IMI regarding transport companies.

These multiple contacts, promoted by the EU Mobility Unit and sponsored by the ELA, have improved relations between national institutions and have also favoured the protection of posted workers. Indeed, cooperation between Member States is a priority in order to tackle fraud and improve protection, and in this regard, Spain has focused on signing agreements with the inspectorates of Portugal and France.¹⁴⁷ The main areas of focus for the Inspectorate, which remain unchanged at present, were the fight against letterbox company fraud and improving the protection of workers posted abroad. It has also focused on improving the investigation of workplace accidents involving workers posted abroad, carrying out transnational inspections, joint visits and improving the exchange of data between national authorities. For example, in a case involving a serious workplace accident suffered by a Spanish posted worker in Portugal, the EU Mobility Unit facilitated the disclosure and assessment of reports issued by the Portuguese Inspectorate identifying serious breaches by the Spanish company of occupational risk prevention regulations. These foreign reports have been taken into account by the Spanish courts to determine the company's liability and guarantee coverage for the worker insured in Spain.¹⁴⁸ This necessary collaboration with other national administrations is also mentioned in the current OEITSS Strategic Plan for 2025-2027.¹⁴⁹ For example, in 7.5th line of action, this Strategic Plan refers to the fight against letterbox companies, which also requires the mass cross-checking of tax and social security data and the communication of information to other national administrations. In effect, the fight must be against both those based in Spain and letterbox companies based in other countries and operating in Spain.¹⁵⁰

Regarding the previous Posting Stat report, in 2023, there will be an increase in human resources at the OEITSS compared to those available in 2021.¹⁵¹ In fact, the number of inspectors has increased from 858 in 2021 to 887 in 2023. Inspectors deal with all matters relating to labour relations and occupational health and safety (including monitoring the working conditions of posted workers and the declaration of posting), social security (including the control of A1 forms in this area), employment policies (including the control of emigration from Spain to other EU countries through intermediary agencies or TEAs) and the control of administrative authorisations for third-country nationals to work in Spain. However, the Ministry of the Interior is responsible for the immigration control of foreigners in an irregular administrative situation through the police and other security forces. The same applies to the most serious cases of labour exploitation, such as human trafficking, which is investigated by the police and remain in the hands of the Public Prosecutor's Office, as it constitutes one of the most serious crimes related to labour. Nevertheless, it is the OEITSS coordinates the National Action Plan against Forced Labour, which covers compulsory labour relations and other forced human activities¹⁵² associated with the most serious forms of labour exploitation. The plan has now come to an end and the OEITSS is leading its renegotiation. (Carrascosa, 2023 a)

The increases in the number of **sub-inspectors** are even more striking, which rose from 994 in 2021 to 1,235 in 2023. In Spain, there are two types of sub-inspectors: one type specialises in employment policies, the application of rules for third-country nationals and social security legislation, including the control of A1 forms, with 968 sub-inspectors in 2023. There is also another, smaller type of sub-inspector specialising

147 See Axis 4 of the Strategic Plan on "International activity of the Labour and Social Security Inspectorate for the years 2021-2023: Promotion of decent work and strengthening of international cooperation in the fight against fraud."

148 Judgment No. 3784/2025 of 14 May 2025, Social Chamber of the High Court of Justice of Galicia (Roj: STSJ GAL 3784/2025 Social Chamber). <https://www.poderjudicial.es/search/AN/openDocument/3b9eb06390a91feda0a8778d75e36fd/20250610>

149 <https://oeitss.gob.es/content/dam/oeitss/documentos/4-0-informaci%C3%B3n-y-normativa/4-1-c-sobre-la-its/Plan-estrat%C3%A9gico-2025-2027-interactivo.pdf>

150 As already envisaged in Action 4.1 of the OEITSS Strategic Plan 2021-2023.

151 Alongside the OEITSS, there are regional inspectorates in two autonomous communities (Catalonia and the Basque Country). All inspectors and deputy inspectors in these territories have the same powers, but regional inspectors focus more on labour relations, employment policies and occupational health and safety, while national inspectors and deputy inspectors from the OEITSS focus more on social security issues and third-country national workers. In any case, these two regional inspectorates are integrated into the OEITSS national information system and coordinated with it.

152 BOE No. 308 of 24 December 2021 (BOE-A-2021-21340): <https://www.boe.es/eli/es/res/2021/12/20/12>.

in occupational health and safety, including preventive conditions for workers on posting, which had 267 sub-inspectors.

5.1. Infringements and penalties related to intra-EU posting of workers in Spain

It should be noted that in Spain, there are no specific criminal offences aimed at prosecuting illegal behaviour related to the posting of irregular workers, which is why administrative protection takes precedence. In fact, the applicable infringements and penalties are set out in the recast text of the Law on Administrative Infringements and Penalties in the Social Order, known as LISOS (Royal Legislative Decree 5/2000)¹⁵³, which also classifies infringements related to posting as minor, serious or very serious, and sets out the possible penalties, as shown in the following tables (see section 3.3 of our first Posting Stat report for further details). Table 27 below lists the specific infringements relating to the posting of workers that a company based abroad may commit in Spain.

Table 27. Summary of administrative infringements related to the posting of workers in Spain

| INFRINGEMENTS ASSOCIATED WITH THE POSTING OF WORKERS IN SPAIN (LISOS Art. 10) |
|--|
| Minor infringements (LISOS Art. 10.1) |
| Formal defects in the communication of the posting. |
| Failure to notify the labour authority in a timely manner of work accidents that have occurred and minor occupational illnesses that have been reported when they are classified as minor. |
| Serious infringements (LISOS Art. 10.2) |
| Submission of the posting notification: <ul style="list-style-type: none"> - After the start of the provision of services in Spain. - Failure to appoint a company representative to liaise with the Spanish labour authorities or for information, consultation and negotiation processes. <p>Informing the competent authorities of the reasons for extending the posting by citing facts and circumstances that are proven to be false or inaccurate.</p> |
| Failure to have the posting documentation available in Spain (during the posting) in accordance with the legally established terms. ¹⁵⁴ |
| Failure to notify the labour authority in a timely manner of work-related accidents and minor occupational illnesses that are classified as serious, very serious or fatal. |
| Failure to submit the documentation required by the Labour and Social Security Inspectorate or submission of any of the documents without translation. |
| Very serious infringement (LISOS Art. 10.3) |
| Failure to report the posting, as well as falsification or concealment of the information contained therein. |
| The fraudulent posting of workers by companies that do not carry out substantive activities in their State of establishment (letterbox companies), as well as the fraudulent posting of workers who do not normally perform their work in the Member State of origin. |

Source: Own elaboration mainly based on the LISOS.

Administrative penalties imposed on companies that commit infringements related to the posting of workers must be proportionate, effective and dissuasive. In Spain, penalties are often fines, although there are also specific penalties for TEAs (as will be seen below). These fines are the same as those that can be imposed on Spanish companies, so, once again, the principle of equivalence is respected. The following

¹⁵³ ELI: <https://www.boe.es/eli/es/rdlg/2000/08/04/5/con>

¹⁵⁴ Law 45/1999, art. 6.

table shows the penalties applicable to infringements in the areas of labour relations and employment¹⁵⁵ and in the area of prevention, which carry higher penalties. In the area of social security, serious and very serious infringements for total or partial non-payment of contributions are penalised by applying a certain percentage to the number of unpaid contributions, including surcharges, interest and costs. If the offence is serious, the percentage ranges from 50% to 100%; if the offence is very serious, from 100% to 150%.¹⁵⁶

Table 28. Fines for infringements in the field of labour relations

| | Common labour fines (LISOS art. 40.1) | Fines for occupational risk prevention (LISOS art. 40.2) |
|----------------------------------|--|---|
| Minor infringement | Fine amount | Fine amount |
| Minimum level | from 70 to 150 euros | from 45 to 485 euros |
| Medium level | from 151 to 370 euros | from 486 to 975 euros |
| Maximum level | from 371 to 750 euros | from 976 to 2,450 euros |
| Serious infringement | Fine amount | Fine amount |
| Minimum level | from 751 to 1,500 euros | from 2,451 to 9,830 euros |
| Medium level | from 1,501 to 3,750 euros | from 9,831 to 24,585 euros |
| Maximum level | from €3,751 to €7,500 | from 24,586 to 49,180 euros |
| Very serious infringement | Fine amount | Fine amount |
| Minimum level | from 7,501 to 30,000 euros | from 49,181 to 196,745 euros |
| Medium level | from 30,001 to 120,005 euros | from 196,746 to 491,865 euros |
| Maximum level | from 120,006 to 225,018 euros | from 491,866 to 983,736 euros |

Source: Own elaboration mainly based on LISOS.

As can be seen in Table 28, minor, serious and very serious penalties are graded into three levels (minimum, medium and maximum), taking criteria not included in the type of offence itself into account¹⁵⁷, such as negligence or intent, fraud or collusion, and failure to comply with prior warnings and requirements from the ITSS itself or even agreements signed with it. Objective elements such as the company's turnover, the number of workers affected, the damage caused and the amount defrauded, whether to workers, social security or other individuals or institutions, are also considered.

If there is continued persistence in committing an infringement, the maximum penalty shall be imposed. When the penalties correspond to serious and very serious offences due to non-payment of contributions, the amount not paid, including surcharges and interest, shall be taken into account for the purposes of grading the penalty.¹⁵⁸ Specifically, it is envisaged that TEAs established in an EU/EFTA country that commit offences classified as very serious¹⁵⁹ will be penalised with a one-year ban on providing workers to user companies in Spain. Furthermore, if such penalties are imposed on two occasions, the ban may be indefinite. Due to its significance, this latter sanction is imposed by the Ministry of Labour and Social Economy or the equivalent authority of the Autonomous Communities with competence to enforce labour legislation. In addition, the labour reform approved in December 2021 has established specific and higher fines for **serious infringements** committed by TEAs and user companies (not only the company that

¹⁵⁵ LISOS art.40.1 (RD Law 32/2021). However, there are different penalties for infringements arising from infringement and settlement reports, migratory movements and foreign labour, and for obstruction.

¹⁵⁶ LISOS Art.22.2 and 23.1.B and K

¹⁵⁷ LISOS Art. 39

¹⁵⁸ LISOS Art.22.2 and 23.1B and K). If the amount not paid does not exceed €10,000: minimum degree; if the amount is between €10,001 and €25,000: medium degree; if the amount exceeds €25,001: maximum degree.

¹⁵⁹ See LISOS, art. 19 bis.2: a) *Formalizing contracts for the provision of workers without being validly constituted as a TEA in accordance with the legislation of the State of establishment or without complying with the requirements of that legislation for the temporary provision of workers hired by it to user companies;* b) *Formalizing temporary employment contracts for the performance of activities and work which, due to their particular danger to safety or health, are determined by regulation;* c) *Assigning workers with temporary contracts to another TEA or to other companies for subsequent assignment to third parties.*

performs the posting of workers).¹⁶⁰ The fines are increased by the following amounts: at the minimum level (from €1,000 to €2,000), at the medium level (from €2,001 to €5,000) and at the maximum level (from €5,001 to €10,000).

As shown in Table 29 provided by the EU Mobility Unit, the OEITSS detected 1,965 infringements related to the intra-EU movement of workers between 2023 and 2025. EU Mobility reported that the Spanish labour inspectorate carried out in 2023 around 1,200,000 inspections, and only around 900 were related to posting. Taking this figure into account, the ratio of inspections relating to posting is very low at just 0.075%. EU mobility explains that this is because preventive mechanized activities have been counted as inspections based on mass data analysis. Before this consideration, the average number of inspections was around 150,000 per year.¹⁶¹ Considering this last figure, the ratio of inspections related to posting would be 0.6%, which is in line with the proportion of posted workers in Spain with a PD A1 certificate compared to the number of people insured by Spanish social security (approximately 0.6%).¹⁶²

The number of infringements detected doubled between 2023 and 2024, rising from 409 to 829. There was a slight decrease in 2025, with 727 infringements detected. The fines imposed were also proportionally higher in 2024, with the average fine increasing from 4,330 € in 2023 to 7,800 € in 2024, before decreasing again to 5,750 € in 2025.

Infringements and associated penalties can be grouped under the following **six** headings: Health and safety, Labour relations, Control of posting declarations, Employment and foreign nationals, social security and other actions.

In terms of **health and safety**, the number of infringements and fines has remained relatively steady between 2023 and 2024, with an average of 50 infringements per year, each amounting to €5,000 on average.

In terms of **labour relations**, the number of infringements detected increased significantly in 2024. These infringements are among the most common and are primarily related to breaches concerning wages and working hours. The average penalty for labour relations infringements was €4,600 in 2023 and 2024, rising slightly to €5,200 in 2025.

Controlling the **posting of declarations** is a particularly sensitive matter. The figures show that the number of infringements has steadily decreased from 80 in 2023 to 44 in 2025. The average penalty in such cases is around €3,000.

Higher penalties were imposed following inspections in two areas: the employment of TCNs and social security. In terms of the **employment of foreign nationals** (TCNs), the number of inspections and infringements was relatively low in 2023, but this figure increased tenfold in 2024, with a record 324 infringements detected. These infringements, which affected in many cases companies posting workers from Portugal, resulted in an average penalty of 10,000 euros, amounting to almost 4 million euros in fines.

Significant infringements relating to **social security affiliation** (insurance) were also detected, with around 200 in 2024 and over 240 in 2025. These resulted in fines of around or over €1 million per year, as well as almost €2 million of unpaid contributions.

Finally, under the **“Other inspections”** heading there are 28 offences relating to the obstruction of inspection work, for which very modest penalties have been issued.

¹⁶⁰ These penalties apply, among others, to the infringements established in the LISOS, art. 19.2.b), 19.2.e), 19 bis. 1.b), 19 ter.2.b) and 19 ter.2.e). See the amendment including a new Article 40.1.c bis introduced by RDL 32/2021, Article 5: <https://www.boe.es/eli/es/rdl/2021/12/28/32>

¹⁶¹ 2018–2020 period (see the previous Posting.Stat report). During this period, approximately 1,543 inspections related to posting were carried out. Comparing the two three-year periods (2018–2020 and 2023–2025), the figures remain relatively constant at around 500 inspections per year.

¹⁶² Roughly 190,000 PD A1 Article 12 forms were received by Spain in 2023, representing around 112,000 workers. This equates to an average of 1.7 PD A1 forms per person, compared to around 18 million people registered with Spanish social security.

Table 29. Infringements, penalties and collection of social security contributions relating to posted workers

| | Topics | Infringements | Penalties | Claimed SS contributions | Voluntarily paid SS contributions |
|------------------|----------------------|---------------|--------------------|--------------------------|-----------------------------------|
| Year 2023 | Health and safety | 50 | 260.200 € | - | - |
| | Labour relations | 134 | 617.431 € | - | - |
| | Posting declarations | 80 | 269.536 € | - | - |
| | Employment and TCN | 27 | 232.843, € | - | - |
| | Social security | 112 | 380.852 € | 1.742.312 € | 1.867.103 € |
| | Other inspections | 6 | 11.254 € | - | - |
| | TOTAL | 409 | 1.772.116 € | 1.742.312 € | 1.867.103 € |

| | Topics | Infringements | Penalties | Claimed SS contributions | Voluntarily paid SS contributions |
|------------------|----------------------|---------------|--------------------|--------------------------|-----------------------------------|
| Year 2024 | Health and safety | 39 | 190.869 € | - | - |
| | Labour relations | 192 | 894.903 € | - | - |
| | Posting declarations | 61 | 148.926 € | - | - |
| | Employment and TCNs | 326 | 3.833.867 € | - | - |
| | Social security | 198 | 1.325.163 € | 1.436.731 € | 540.252 € |
| | Other inspections | 13 | 70.757 € | - | - |
| | TOTAL | 829 | 6.464.485 € | 1.436.731 € | 540.252 € |

| | Topics | Infringements | Penalties | Claimed SS contributions | Voluntarily paid SS contributions |
|------------------|----------------------|---------------|--------------------|--------------------------|-----------------------------------|
| Year 2025 | Health and safety | 63 | 319.094 € | - | - |
| | Labour relations | 173 | 903.994 € | - | - |
| | Posting declarations | 44 | 147.916 € | - | - |
| | Employment and TCNs | 196 | 1.914.883 € | - | - |
| | Social security | 242 | 890.041 € | 1.419.663 € | 359.591 € |
| | Other inspections | 9 | 7.508 € | - | - |
| | TOTAL | 727 | 4.183.436 € | 1.419.663 € | 359.591 € |

Source: Special Coordination Unit for Combating Fraud in Transnational Work (EU Mobility)

Table 30 shows that one in three infringements occur in the construction sector. Other notable sectors are transportation (20%), accommodation (10%) and manufacturing (7%), with agriculture accounting for 4% of the total number of infringements detected between 2023 and 2025.

Table 30. Infringements per economic sector

| Sector | 2023 | 2024 | 2025 | Total | % |
|--|------------|------------|------------|--------------|-------------|
| Construction | 74 | 410 | 233 | 717 | 36% |
| Transportation | 113 | 187 | 86 | 386 | 20% |
| <i>Passenger air transport (5110 and 5223)</i> | 93 | 132 | 55 | 280 | 14% |
| Accommodation | 15 | 6 | 176 | 197 | 10% |
| Manufacturing | 46 | 41 | 48 | 135 | 7% |
| Trade | 31 | 20 | 48 | 99 | 5% |
| Administrative activities | 30 | 39 | 24 | 93 | 5% |
| <i>TEAs activities (7820)</i> | 4 | 14 | 1 | 19 | 1% |
| Agriculture | 1 | 40 | 35 | 76 | 4% |
| Other | 99 | 86 | 77 | 262 | 13% |
| TOTAL | 409 | 829 | 727 | 1.965 | 100% |

Source: Special Coordination Unit for Combating Fraud in Transnational Work (EU Mobility)

When we compare these figures with the breakdown of posted workers in Spain by sector of activity (see Table 22), we can see that the percentages of infringements in construction and agriculture are slightly lower than the proportion of postings received in these sectors (47% and 6%, respectively). Similarly, infringements are not particularly noteworthy in the case of TEAs.

However, the number of infringements in passenger air transport (14%) and in tourist accommodation (10%) is relatively high, despite Spain apparently receiving relatively low number of postings in these sectors. This issue requires a more detailed analysis, to determine whether the number of posted workers in these sectors is higher than could be identified, or if infringements are more common in these specific economic activities.

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