



ENHANCING THE COLLECTION AND REPORTING OF INSPECTION STATISTICS ON THE ENFORCEMENT OF THE POSTING RULES

FREDERIC DE WISPELAERE, LYNN DE SMEDT & DIRK GILLIS (HIVA – KU LEUVEN)



December 2024

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General contact: frederic.dewispelaere@kuleuven.be
p.a. POSTING.STAT 2.0
HIVA - Research Institute for Work and Society
Parkstraat 47 box 5300, 3000 LEUVEN, Belgium

For more information frederic.dewispelaere@kuleuven.be

Please refer to this publication as follows:

De Wispelaere, F., De Smedt, L. & Gillis, D. (2024). *Enhancing the collection and reporting of inspection statistics on the enforcement of the posting rules*. POSTING.STAT 2.0.

Information may be quoted provided the source is stated accurately and clearly.

This publication is part of the POSTING.STAT 2.0 project. This project has received funding by the European Commission under the call ESF-2023-POW-UDW.

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Abbreviations

AEntG (Germany)	Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (Arbeitnehmer-Entsendegesetz)
BALM (Germany)	Federal Office for Logistics and Mobility (Bundesamt für Logistik und Mobilität)
Basic Regulation	Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems
BUAK (Austria)	Construction Workers Annual Leave and Severance Pay Fund (Bauarbeiter Urlaubs- und Abfertigungskasse)
DAC (Belgium)	Department for Administrative Control
DGT (France)	Labour Inspectorate (Direction Général du Travail)
DRV (Germany)	German Pension Insurance (Deutsche Rentenversicherung)
ECL (Belgium)	Fair Competition Directorate of the National Institute for Social Insurance of the Self-Employed
ELA	European Labour Authority
ES (Lithuania)	Employment Service
FCIS (Lithuania)	Financial Crimes Investigation Service
FTE	Full-time equivalent
FTEi (Belgium)	FTEi is that part of a FTE that is available for the core task-related activities (i.e., investigations and the administrative tasks necessary to complete these investigations successfully)
GITD (Poland)	Chief Inspectorate of Road Transport
ILO	International Labour Organization
IMI	Internal Market Information System
IND (the Netherlands)	Immigration and Naturalisation Service
INL (Italy)	National Labour Inspectorate (Ispettorato nazionale del lavoro)
INPS (Italy)	National Institute of Social Security (Istituto nazionale della previdenza sociale)
IRSD (Slovenia)	Labour Inspectorate of the Republic of Slovenia
ITM (Luxembourg)	Inspection du travail et des mines
LSDB CC (Austria)	Competence Centre for Combating Wage and Social Dumping (LSDB Competence Centre)
MPO (the Netherlands)	Notifications and Prevention of Unfair Work (Meldingen en preventie oneerlijk werk)
NIHDI (Belgium)	National Institute for Sickness and Disability Insurance
NISSE (Belgium)	National Institute for Social Insurance of the Self-Employed
NLA (the Netherlands)	Netherlands Labour Authority
NSSO (Belgium)	National Social Security Office
OEITSS (Spain)	State Labour Inspections and Social Security Services (Organismo Estatal Inspección de Trabajo y Seguridad Social)
OSH	Occupational safety and health
PD A1	Portable Document A1
PIP (Poland)	Polish National Labour Inspectorate
PIP/SLI (Poland)	State Labour Inspection
SBGS (Lithuania)	State Border Guard Service
SIIS (Belgium)	Social Information and Investigation Service

SLI (Lithuania)	State Labour Inspectorate
SSIFB (Lithuania)	State Social Insurance Fund Board
SVB (the Netherlands)	Social Insurance Bank
TCN	Third-country national
TSA (Lithuania)	Lithuanian Transport Safety Administration
TSW (Belgium)	Supervision of Social Laws
WagwEU (the Netherlands)	Employment Conditions for Posted Workers in the European Union Act (Wet arbeidsvoorwaarden gedetacheerde werknemers in de Europese Unie)
ZUS (Poland)	Social Insurance Institution

Executive summary

“No statistics, no reality, no problems”

Discussions, both academic and political, on the posting of workers tend to be narrowed down to the infringements and abuses it entails, often captured by the catch-all term ‘social dumping’^{1,2} All the more remarkable is the observation that there is a lack of systematic collection and reporting of inspection statistics³ on the enforcement of ‘posting rules’⁴ at European level as well as in most Member States. For instance, in the recent study supporting the monitoring of Directive (EU) 2018/957 and Directive 2014/67/EU (Andriescu et al., 2024: 238) it was pointed out that *“With regard to the enforcement of the posting rules, there is no data available at EU level, covering all Member States, for a number of basic indicators, such as the 1) number of labour inspectors involved; 2) number of inspections; 3) outcome of these inspections; 4) main types of infringements; and 5) recovery of un(der)paid remunerations and financial sanctions.”*

This thematic paper, prepared in the framework of the POSTING.STAT 2.0 project, aims to overcome this shortcoming by collecting, presenting, and discussing inspection statistics on the enforcement of the posting rules in the 11 Member States involved in the POSTING.STAT 2.0 project (Austria, Belgium, France, Germany, Italy, the Netherlands, Lithuania, Poland, Slovakia, Slovenia, and Spain). A survey was prepared for this purpose (see *Annex II*). The collection of data for 2023 by the national experts involved in this project (see *Annex I*) took place between April and July 2024.⁵ In addition, a thematic webinar on this topic was organised in June 2024.⁶

The thematic paper serves as a pilot or feasibility study, examining both the availability of inspection statistics on the enforcement of the posting rules at Member State level and the limitations of these data. It may not provide a comprehensive overview of all relevant inspection statistics on the posting of workers in the 11 Member States covered. The paper aims to encourage a systematic collection and reporting of such data across all EU Member States and at the European level. To support this objective, it provides recommendations for improving the collection of (harmonised) statistics on the enforcement of the posting rules at both levels.

Reasons for the collection and reporting of inspection statistics on the enforcement of the posting rules?

When addressing issues related to the collection and reporting of inspection statistics on the enforcement of posting rules, one question that arises is why these data are so important and why it is best to collect and report them in a uniform, harmonised manner both within and across Member States. After all, statistics should add value rather than merely being a ‘nice-to-have.’ It is argued that the collection of inspection statistics should allow for better monitoring and evaluation at both

1 There is no legally recognised and universally shared definition of the notion of ‘social dumping’. According to the European Parliament resolution of 14 September 2016 on social dumping in the European Union (2015/2255(INI)), this concept covers “a wide range of intentionally abusive practices and the circumvention of existing European and national legislation (including laws and universally applicable collective agreements), which enable the development of unfair competition by unlawfully minimising labour and operation costs and lead to violations of workers’ rights and exploitation of workers”. Interestingly, this definition was also recently included in the Belgian Social Penal Code ([Book 1 – Art. 1.1](#)).

2 Both seem to be considered communicating vessels, whereby, when providing cross-border services, it is almost automatically assumed that infringements and abuses are involved, mainly in labour-intensive and price-sensitive sectors.

3 ‘Inspection statistics’ refer to the quantitative data generated from the process of conducting inspections.

4 Basic Regulation (EC) No 883/2004 and Implementing Regulation (EC) No 987/2009 (i.e., ‘the Regulations on the coordination of social security systems’), Directive 96/71/EC (i.e., the ‘Posting of Workers Directive’) (incl. Directive (EU) 2018/957), Directive 2014/67/EU (the ‘Enforcement Directive’), and finally of Directive (EU) 2020/1057 (i.e., the ‘Directive on posting drivers in the road transport sector’).

5 The authors would like to thank the national experts involved in the POSTING.STAT 2.0 project (see *Annex I*) for all their efforts in collecting inspection statistics. In addition, a special thanks to those contacted within the various national competent enforcement bodies for providing relevant inspection statistics. The reader is invited to consult the national country reports prepared as part of the POSTING.STAT 2.0 project to read more in-depth information on the inspection statistics collected by the national experts.

6 For more information about this webinar (incl. all PPT-presentations), see <https://hiva.kuleuven.be/en/calendar/calendaritems/posting-stat-webinar-enhancing-the-collection-of-statistics-on-the-enforcement-of-the-posting-rules>

operational and policy level. This information would also support evidence-based policy making⁷ at both levels.^{8,9} Indeed, collecting such data over a longer period of time will allow to detect trends as well as evaluate the impact of policy measures and changes. Such statistics would also facilitate a differentiation of the prevalence of infringements across sectors (for instance, previous research indicates that infringements mainly occur in construction, road freight transport, agriculture and horticulture, meat processing, live-in care), and across the different types of intra-EU posting/posted workers (for instance, posted third-country nationals (TCNs)¹⁰ versus posted EU-citizens, posted temporary agency workers¹¹, etc.). Such differentiation would enable nuances in both academic and political debates regarding cross-border social fraud in the case of intra-EU posting (e.g., Do infringements occur to the same extent across sectors and types of intra-EU posting?).

Most enforcement bodies¹² use their own terminology when defining concepts such as ‘inspection’, ‘inspector’, ‘infringement’, ‘sanction’, and ‘recovery’. This affects the comparability of inspection statistics at national and certainly European level. Consequently, there is a very high risk of comparing apples with oranges.¹³ Hence, collecting and reporting inspection statistics in such a way that it allows for their comparability (and ideally their interoperability), would be very useful.

Nevertheless, the use of (harmonised) inspection statistics also has its limitations. Indeed, inspection statistics may over- or underestimate the level of compliance with the posting rules. For instance, inspections can take place both randomly as well as pre-selected based on a risk assessment.¹⁴ In the latter case, infringement rates could be (much) higher than in the former and may therefore give a distorted view of the actual scale of infringements. Furthermore, inspection statistics show only the ‘*tip of the iceberg*’. They do not tell us much about the overall scale of infringements that occur in cases of intra-EU posting. For instance, the number of (requests for) withdrawals of a Portable Document A1 (PD A1) can be a misleading indicator if one wants to make

7 The Dutch Advisory Council on Migration (Adviesraad Migratie, 2024) recently formulated the following recommendation: “It is crucial that better information is collected for policy making and enforcement. More research and monitoring is needed on the nature and extent of EU posting, abuses and sham constructions in the Netherlands.”

8 For instance, this can help to develop a strategic plan or action plan at national or even European level. Furthermore, an analysis of the inspection statistics could support the enforcement body’s action to reorganise its inspections with a view to concentrating more efforts on the sectors of activity or types of posted workers/intra-EU posting that seem to be most prone to infringements.

9 See, for instance, following conclusion made by Carrascosa Bermejo and Millán (2023: 98): “The available data shows that the majority of companies comply with the strict requirements established under the Coordination Regulation posting rule. The proportion of posting that is fraudulent seems too low to justify a regulatory change.”

10 For instance, in the report reviewing the application and implementation of Directive (EU) 2018/957 (European Commission, 2024a) it is stated that “The Commission notes that posted third-country nationals are generally more exposed to abusive practices, such as fraudulent posting, labour rights violations, precarious working conditions, irregular payment and non-payment of social contributions. Posted third-country nationals are also likely to accept remuneration below what should be paid. Risks related to precarious living and working conditions also seem to be higher for posted third-country nationals.”

11 For instance, in the report reviewing the application and implementation of Directive (EU) 2018/957 (European Commission, 2024a) it is stated that “The Commission notes some strong concerns that the practical application of the provisions of the Directive related to posted temporary agency workers may result in situations where less favourable conditions may be applied to such workers. This could be due to an actual intention to circumvent the rules, but it could also result from a limited awareness on the part of the temporary employment agencies and the user undertaking(s) of the relevant rules that apply in other Member States, particularly regarding collective agreements.”

12 It was opted to use the generic term ‘enforcement body’ in the thematic paper. It was a deliberate choice not to use the term ‘labour inspectorate’ because the enforcement of the posting rules is broader than the labour law aspects of it as well as the fact that in several Member States it is actually the tax administration that is competent for the enforcement of the posting rules. However, determining which entities are covered by the term proves challenging. For example, trade unions also have enforcement powers in some Member States. The question also arises whether the public authorities authorised to issue a PD A1 are covered by the term.

13 Moreover, caution is advised when comparing infringement rates among Member States because the selection of inspections may vary greatly between the competent enforcement bodies and thus Member States (see below).

14 Article 10(1) of Directive 2014/67/EU (i.e., the Enforcement Directive) clearly states that “Member States shall ensure that appropriate and effective checks and monitoring mechanisms provided in accordance with national law and practice are put in place and that the authorities designated under national law carry out effective and adequate inspections on their territory in order to control and monitor compliance with the provisions and rules laid down in Directive 96/71/EC, taking into account the relevant provisions of this Directive and thus guarantee their proper application and enforcement. Notwithstanding the possibility of conducting random checks, inspections shall be based primarily on a risk assessment by the competent authorities. The risk assessment may identify the sectors of activity in which the employment of workers posted for the provision of services is concentrated on their territory. When making such a risk assessment, the carrying out of large infrastructural projects, the existence of long chains of subcontractors, geographic proximity, the special problems and needs of specific sectors, the past record of infringement, as well as the vulnerability of certain groups of workers may in particular be taken into account.”

a statement about how prone the posting rules are to infringements since this number might largely depend on the number of inspections carried out. Consequently, in order to estimate the real extent of infringements in case of intra-EU posting, research methodologies other than the analysis of inspection statistics are more suitable. This could involve conducting a survey of the economic actors involved in posting (posted workers, posted self-employed persons, posting companies, and clients) as well as inspections of a randomly selected group of posting companies or posted workers, for example, within a specific sector of activity.

Feasibility regarding the collection and reporting of (harmonised) inspection statistics on the enforcement of the posting rules

In the webinar organised in June 2024, the vast majority of participants agreed that it is relevant to collect and report (harmonised) inspection statistics on the enforcement of the posting rules, both at national and European level. However, they were less optimistic about the feasibility of this exercise. Firstly, because at national level the competences regarding the enforcement of the posting rules are often fragmented over different enforcement bodies, and therefore also the available inspection statistics on this topic. Secondly, as already stated, enforcement bodies use their own terminology resulting in substantial differences in the definitions and thus the scope of inspection indicators.

Another question that arises is which ‘resource indicators’¹⁵ and ‘indicators of the work carried out’¹⁶ are most relevant for policy makers (both at the level of the enforcement body and higher up levels). The questionnaire completed by the national experts included queries for statistics on the number of inspectors involved, the number of inspections, the outcomes of these inspections, the type of infringements detected, the sanctions imposed, and finally the recovery of financial penalties. All these indicators have their strengths and shortcomings. For example, responses to the questionnaire revealed that it is best to distinguish between the number of inspectors who may be involved in an inspection related to the enforcement of the posting rules *in theory* versus the number of inspectors who actually conduct such inspections. Moreover, there might be other relevant (ratio) indicators combining some basic enforcement indicators (e.g., number of inspectors and inspections) with some relevant ‘posting indicators’ (e.g., number of incoming/outgoing posted workers/posting companies).

From the findings of the seminar and the survey, it can be concluded that there is still a long and winding road ahead to collect comparable inspection statistics on the enforcement of the posting rules at both Member State and European level. Even if an agreement is reached at Member State and European level regarding which indicators should be used, it is still unlikely that this will result in the reporting of harmonised inspection statistics in the short and long term. In the short term, a convergence of available inspection statistics seems more feasible. In the meantime, collecting inspection statistics for all Member States is certainly both useful and necessary, as it can provide 27 interesting individual stories from which much can be learned. However, this requires that such statistics are collected and reported at national level for all relevant enforcement bodies while the survey conducted shows that available inspection statistics on the enforcement of the posting rules in most Member States are still very incomplete and fragmented.¹⁷ Moreover, said statistics are often only available for one perspective (inbound or outbound). Nevertheless, reference can be made to

¹⁵ Resource indicators provide information on the resources that are available to the enforcement body to carry out its mandate. It includes information regarding the human and financial resources of the enforcement bodies.

¹⁶ Indicators of the work carried out provide specific information on the labour inspectorate's usual and current activities, including information on inspection actions. Indicators in this group include, for example: the number of proactive and reactive visits; the number of infringements identified; the complaints filed and treated; the reports completed; and the results and impact of labour inspection actions.

¹⁷ This is a general reality regarding the collection of inspection statistics. For instance, the foreword to the ILO report 'Guide on Harmonization of Labour Inspection Statistics' states that "the collection, compilation, analysis, and use of labour inspection data varies widely from one country to another often due to differences in the allocation of resources, data collection systems and terms and definitions used" (ILO, 2016: 5).

good practices in, for example, Belgium,¹⁸ France,¹⁹ Luxembourg,²⁰ Poland,²¹ and especially Switzerland²² regarding the collection and reporting of inspection statistics on the posting of workers.

Enforcement of the posting rules: a priority or not?

Within a single Member State, multiple enforcement bodies are often involved in enforcing the posting rules, with either exclusive or shared competence over one or more related legislations (e.g., focus on the enforcement of the Regulations on the coordination of social security systems, the Posting of Workers Directive, the Directive on posting drivers in the road transport sector, posted temporary agency workers, etc.) (see *Annex III – Table a1*).²³ Furthermore, some of these enforcement bodies will only look at outbound posting (e.g., the issuance of the PD A1) whereas other enforcement bodies will look at inbound posting (e.g., enforcement of the wage and working conditions of incoming posted workers). Moreover, relevant enforcement bodies may operate at different levels, notably at federal, regional, and/or sectoral level²⁴. In some of the enforcement bodies involved, specific units²⁵ have been created that focus specifically on the posting of workers. Finally, in some Member States, there are strategic bodies²⁶ that play a crucial role in supporting the enforcement of the posting rules.

Enforcement bodies usually need to cover a broad set of labour and/or social security legislation. As a result, inspectors will generally not focus exclusively on the enforcement of the posting rules nor will inspections target this issue specifically. On top of the other reasons mentioned, this reality makes it very challenging for enforcement bodies to collect and report statistics on the enforcement of the posting rules. This is illustrated by, for instance, the data reported for the enforcement bodies in charge of enforcing the posting rules in Austria, Germany, Italy, Slovenia, and Spain, which show that, at least in theory, all their inspectors can be involved in an inspection verifying the correct application of the posting rules. However, for Belgium (total for *NSSO*, *NISSE*, and *TSW/CLS*: 14.2%), France (*DGT*: 6.6%), Poland (*PIP*: 8%), Lithuania (*TSA*: 48.9%), and Slovakia (*Labour Inspectorate*: 8.2%), it is possible to make a (partial) statement on the percentage of inspectors deployed to enforce the posting rules. Moreover, for Austria, it appears that 6.7% of the workers inspected by the *Financial Police* were posted workers. In addition, 13.3% of the construction companies inspected by *BUAK* concerned posting companies.

18 SIOD/SIRS (2024). *Jaarrapport Sociale Dumping 2023 / Rapport Dumping Social 2023*.

19 DGT (2022). *Inspection du travail : Bilan 2021 et premières tendances 2022. Perspectives 2023*.

20 ITM (2024). *Rapport annuel 2023*.

21 PIP (2024). *Sprawozdanie z działalności Państwowej Inspekcji Pracy w 2023 roku*.

22 SECO - Direction du travail (2024). *Rapport Flam 2023 - Mise en oeuvre des mesures d'accompagnement à la libre circulation des personnes entre la Suisse et l'Union européenne*.

23 The fragmented supervision of the posting rules by different enforcement bodies was already pointed out by the Dutch Advisory Council on Migration in a report on the posting of TCNs to the Netherlands (Adviesraad Migratie, 2024).

24 For instance, in Austria, the Construction Workers Annual Leave and Severance Pay Fund (*Bauarbeiter Urlaubs- und Abfertigungskasse – BUAK*) inspects companies in the construction sector. In Poland there is the Chief Inspectorate of Road Transport (*GITD*) which checks labour conditions of incoming posted workers in the transport sector.

25 For instance, in Belgium: the unit 'Posted Workers' within the Directorate-General for Supervision of Social Law (*TSW/CLS*) of the FPS Employment, Labour and Social Dialogue, the unit 'Cross-border employment' (GOT) at the Inspectorate of the National Social Security Office (*NSSO*), and the Directorate 'Fair competition' (ECL) at the Inspectorate of the National Institute for Social Insurance of the Self-Employed (*NISSE*). In Spain, the EU Labour Mobility Unit is a special unit in the *OEITSS* to coordinate all inspection actions related to ELA and it is the national point to coordinate all the actions related to ELA. In the Netherlands, the 'Prevention and Enforcement' team within the *SVB* was established in September 2018 to intensify preventive and repressive enforcement of the provisions on applicable legislation in the Coordination Regulation. In Poland, the *ZUS* Branch in Siedlce is handling requests from competent foreign institutions regarding the validity of PDs A1 and discrepancies as to the applicable legislation.

26 In Lithuania, the Interinstitutional Cooperation Centre started operating on 1 February 2024. In Belgium, the Social Information and Investigation Service (*SIIIS*) is a coordination body that, based on the knowledge and insights of the services involved and scientific support, develops a vision of combating social fraud and translates it into concrete strategies. Furthermore, *SIIIS* collects and reports inspection statistics of the different enforcement bodies in Belgium.

Table Enforcement of the posting rules, number of inspectors and inspections, 2023²⁷

	INSPECTORS		INSPECTIONS	
	Number of inspectors specifically focused on the enforcement of the posting rules	Share in total number of inspectors of the enforcement body	Number of inspections related to the enforcement of the posting rules	Share in total number of inspections of the enforcement body
AT		<i>Financial Police:</i> (100%) <i>BUAK:</i> (100%)	<i>Financial Police:</i> 1 402 companies providing services in Austria involving 3 443 posted workers <i>BUAK:</i> 2 250 companies providing services in the Austrian construction sector, involving 8 309 posted workers	<i>Financial Police:</i> 6.7% of inspected employees <i>BUAK:</i> 13.3% of inspected companies
BE	<i>Total:</i> 80.7 FTEi, of which <i>NSSO:</i> 34.6 FTEi <i>NISSE:</i> 11.2 FTEi <i>TSW/CLS:</i> 34.9 FTEi	<i>Total:</i> 14.2% <i>NSSO:</i> 11.3% <i>NISSE:</i> 13.6% <i>TSW/CLS:</i> 19.4%	<i>Total:</i> 7 759, of which: <i>NSSO:</i> 2 481 <i>NISSE:</i> 653 <i>TSW/CLS:</i> 4 625	<i>Total:</i> 12.9% <i>NSSO:</i> 6.6% <i>NISSE:</i> 12.6% <i>TSW/CLS:</i> 26.5%
DE				
ES		<i>OEITSS:</i> (100%)	<i>OEITSS:</i> 892	
FR	<i>DGT:</i> 103.5 FTE	<i>DGT:</i> 6.6%	<i>DGT:</i> 14 156 (2022)	<i>DGT:</i> 6.1%
IT		<i>INL:</i> (100%)		
LT	<i>TSA:</i> 23	<i>TSA:</i> 48.9%	<i>TSA:</i> 2 784 foreign hauliers inspected	<i>TSA:</i> 40.1%
NL	<i>SVB (Prevention and Enforcement Team Applicable Legislation):</i> 19.2 FTE		<i>SVB:</i> 45 inspections (2023) <i>NLA – MPO:</i> 107 inspections regarding the Posting of Workers Directive (2020)	
PL	<i>PIP:</i> 121	<i>PIP:</i> 8.0% <i>ZUS:</i> (100%)	<i>PIP:</i> 362 of which 268 on postings from Poland and 94 on postings to Poland The <i>ZUS</i> branch in Siedlce carried out 150 investigations	<i>PIP:</i> 0.6%
SI		<i>IRSD:</i> (100%)		
SK	<i>Labour Inspectorate:</i> 21 specialised in posting of workers	<i>Labour Inspectorate:</i> 8.2%		

* For several Member States, it was reported that all inspectors in one of the relevant enforcement bodies could potentially be involved in the enforcement of the posting rules. For these enforcement bodies, '(100%)' is indicated.

** DE: 9 200 custom officers/inspectors work in the unit Financial Control Undeclared Work (*FKS*).

*** ES: Around 40 inspectors within the Group of Experts on European Labour Mobility deal with the most complex cases.

**** SK: Additionally, from a sending perspective, the total number of officers working on PD A1 matters at both *SLA* headquarters and branch offices is 161. Most branch officers handling PD A1-related tasks have broader responsibilities beyond issuing these certificates.

Source Based on data from the questionnaire filled out by the national experts

One of the observations from the previous POSTING.STAT project was that a mismatch between the political announcements regarding the fight against 'social dumping' and the low number of inspectors and inspections focusing on the enforcement of the posting rules can often be observed.

²⁷ For other Member States not covered by the POSTING.STAT 2.0 project interesting information is sometimes available as well. In Luxembourg, there were 18 inspectors at *ITM* focusing on the enforcement of the posting rules, or 18.2% of the total number of inspectors at *ITM* in 2023 (*Inspection du travail et des mines*, 2024). *ITM* conducted 13 029 inspections regarding compliance with the posting rules. In 2023, 36 587 companies and 158 848 workers were inspected by the labour inspectorate in Switzerland regarding compliance with the posting rules. Of the 36 587 companies inspected in 2023, there were 9 310 posting companies, 22 543 Swiss employers and 4 734 self-employed persons. In 2023, 26% of all workers posted to Switzerland were subject to an inspection (*SECO - Direction du travail*, 2024).

However, to make a solid assessment of the number of inspections aimed at enforcing the posting rules, and whether or not this number is sufficient, the data reported in this thematic report are as such insufficient and should be supplemented by interviews with experts of the enforcement bodies concerned.²⁸

Furthermore, if we want to assess whether the enforcement of the posting rules is a priority for an enforcement body, the establishment of benchmarks would be useful. The ILO states a benchmark of one inspector per 10 000 workers (ILO, 2006).²⁹ However, even the ILO does not really seem to consider this a hard benchmark.³⁰ In France, there is in principle one inspector focusing on the posting rules available for 2 264 incoming posted workers declared in the prior declaration tool. For Belgium, it concerns one inspector for 3 270 incoming posted workers. Finally, in the Netherlands, one inspector of the *SVB* covers 5 015 incoming posted workers. The benchmark of one inspector per 10 000 workers, as defined by the ILO, is thus met by all three Member States.

Finally, priority can also be reflected in the objectives set by the Member State or enforcement body concerning the targeted number of inspections to be carried out. For instance, Switzerland aims to control between 30% and 50% of incoming posted workers and self-employed persons, mainly because of the higher risk of wage underpayments (given the wage gap between Switzerland and other countries) (SECO - Direction du travail, 2024). For the enforcement bodies in the Member States covered by the POSTING.STAT 2.0 project, no data are available on the percentage of incoming and outgoing posted workers they control annually. This is quite remarkable and therefore definitely something that should receive attention in the future.

Extent and characteristics of infringements identified during inspections on the posting of workers

In **Austria**, the *Financial Police* reported that 6.8% of the posted workers checked in 2023 were suspected of being underpaid. In addition, *BUAK* reported that 25.5% of the posting companies active in the Austrian construction sector were suspected of underpaying workers. According to statistics from the *Financial Police* and *LSDB CC*, the main types of violations were underpayment, failure to provide the necessary notification documents (e.g., the PD A1) and failure to submit wage documents. More than € 4.1 million was claimed by the *Financial Police* and some € 2.7 million by *LSDB CC*.

In 44% of the investigations on the posting of workers carried out by the **Belgian** social inspection services (*NJSO, NISSE and TSW/CLS*) in 2023, an infringement to the posting rules was found. For the thematic inspections of *Brazilian filières*³¹ (77.8%) and TCNs (59.1%), these infringement rates were even higher. Some € 7.4 million was reported for the recovery of unpaid social security contributions (including additional social security contributions imposed). The rectification of rights/duties of citizens due to non-compliance with the terms and conditions of employment amounted to € 14.8 million. Furthermore, 940 PDs A1 were withdrawn by the competent Member

²⁸ The same is true for the political announcements made which often lack sufficient evidence.

²⁹ See also the European Parliament resolution of 14 September 2016 on social dumping in the European Union (2015/2255(INI)): "Calls on the Member States to increase efficiency and to secure appropriate staffing levels and resources for their control bodies (including social and/or labour inspectorates, agencies and liaison offices), including for interpretation and translation, inter alia through the exchange of best practices; urges the Member States to meet the benchmark of one labour inspector for every 10 000 workers, as recommended by the ILO, and to make sure that they are adequately equipped to enforce European legislation in the area of free movement of workers and services."

³⁰ "The determination of the concrete number of inspectors needed by each inspectorate will be determined by criteria specific to the national context, including: the number and nature of the functions assigned to the inspection system; the number, nature, size and situation of the workplaces liable to inspection; the number of workers; the number and complexity of legal provisions to be enforced; the material and financial resources available to the inspectorate; and the practical conditions under which visits of inspection must be carried out in order to be effective. A ratio exclusively based on the number of labour inspectors per thousands of workers does not take into consideration all the elements identified by Article 10 of Convention No. 81 and should not be used as a benchmark" (ILO, 2022: 4.1.8).

³¹ The term 'Brazilian filière' is used to depict professional money laundering networks operating on an international scale. Initially, these networks focused mainly on social fraud in the Brazilian-Portuguese milieu, hence their name. In the meantime, the networks have evolved and although the front men – managers of the companies – often still have Portuguese or Brazilian nationality, the activities have long since gone beyond money laundering from undeclared work in the construction sector.

States at Belgium's request. Moreover, the *NSSO* reported 1 200 *fictional* PDs A1 and *NISSE* had to start the dialogue and conciliation procedure to contest 351 PDs A1 in 2023. In order to monitor the dialogue and conciliation procedure with other Member States concerning the validity of the PD A1, Belgium initiated the *OSIRIS platform* in June 2015. The majority of files in *OSIRIS* concern PDs A1 issued by Poland (32% of the files), Portugal (13%), and Romania (11%). Furthermore, 46% of the files opened since 1 September 2023 concern the construction of buildings and additional 35% of the files concern specialised construction activities. Finally, it appears that the lack of substantial activities of the employer in the sending Member States is the most common legal motive reported to initiate the dialogue and conciliation procedure.

In 2022, almost 3 000 administrative offence proceedings were initiated by *FKS* in **Germany** regarding the Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (*AEntG*) alone. Data on the sanctions imposed relating to the *AEntG* indicate an amount of more than € 6.6 million in 2022, of which 83.4% related to non-compliance with the minimum wages and other working conditions. The majority of these sanctions applied to the construction sector (48.3%) and healthcare sector (28.3%). Finally, Germany requested the withdrawal of 655 PDs A1.

In 2023, inspections generated € 168 million in adjustments relating to cross-border social security fraud in **France**. *URSSAF* reported that 209 cases with an estimated financial value of about € 210 million were ongoing at the beginning of 2024. These cases mainly concerned the construction sector (80 cases) and temporary work agencies (27 cases). The cases mainly applied to Portugal (58 cases), Romania (42 cases), Poland (21 cases), and Luxembourg (18 cases).

In **Italy**, the *INL* mentioned that 324 workers received protection for posting related infringements. The majority of these workers was active in the services sector (50.3%) and the construction sector (39.8%), while a minority was active in agriculture (1.9%) and industry (0.9%).

In 2022, out of the 47 companies inspected by the *SLI* in **Lithuania**, 10 were found to have violated the posting rules, meaning that the infringement rate was 21.3%. The majority of the 10 infringements, namely seven, concerned companies which did not declare the posted workers or declared them too late. Remarkably, out of the 2 784 inspections carried out in 2023 by *TSA*, infringements were found in seven cases, or an infringement rate of 0.3%.

In 2020, the Dutch *NLA* conducted 107 inspections regarding the Posting of Workers Directive in **the Netherlands**, of which 27 inspections (25%) revealed infringements. In 2019, the *SVB* conducted 70 inspections (covering 5 589 posted workers), where in 19 cases (covering 802 posted workers) an infringement related to fraud was detected, or 27.1% of the cases and 14.3% of the posted workers. In 2019, at the request of the *SVB*, competent institutions of issuing Member States withdrew a total of 445 PDs A1 for postings to the Netherlands. However, at the end of that year, the *SVB* still had 2 153 outstanding requests for the withdrawal of PDs A1. Enforcement on the rules on applicable legislation allowed the tax authorities in the Netherlands to potentially levy € 9 681 288 in premiums. In 2020, 539 PDs A1 were withdrawn by the competent institutions in another Member State at the request of the *SVB*. Moreover, 1 653 PDs A1 issued by competent public authorities in other Member States had been requested by the enforcement unit of the *SVB* to be withdrawn. This yielded a potential of premiums to be collected for and by the Dutch tax authorities of € 9 920 953. In 2021, 2 465 PDs A1 were requested to be withdrawn by the competent public authorities in another Member State. Finally, 66 PDs A1 were requested to be withdrawn in 2022 and 32 PDs A1 in 2023.

In **Poland**, *ZUS* reported that irregularities with regard to the enforcement of the rules on the posting of workers were identified during 123 inspections, equalling 0.5% of total inspections. In 2023, 540 PDs A1 (including 215 falsified PDs A1) were withdrawn by *ZUS*. Between January and September 2024, *ZUS* detected 74 falsified PDs A1. In 2023, *PIP* exchanged information via IMI with foreign competent authorities in the area of the posting of workers in 597 cases. In 568 cases, the foreign institutions (mainly from Belgium and Austria) were the initiating party. Inspections

during which the genuineness of the posting of workers *from* Poland was examined, showed that a total of 457 persons, including 310 foreigners, did not meet the conditions for recognition as a posted worker *from* Poland. Compared to the total of around 2 200 workers posted from Poland inspected, this amounts to a share of 20.8%.

In 2023 in **Slovenia**, roughly 7% of the applications for a PD A1 under Article 12 of Regulation 883/2004 were refused by the Health Insurance Institute due to reasons mainly related to taxation (i.e., outstanding tax liabilities, failure to regularly submit tax deduction forms, no bank account or blocked bank account) (40% of all rejections). Furthermore, Slovenia reported 16 violations regarding the *Employment, Self-Employment and Work of Foreigners Act*, 68 violations regarding the *Transnational Provision of Services Act*, and 72 violations regarding the *Employment Relations Act*. Most of the infringements to the *Transnational Provision of Services Act* concerned foreign employers who provided services in Slovenia despite not meeting the required conditions (57.4% of the 68 violations), and foreign employers who did not notify the authorities about the intention to provide services in Slovenia or the services provided did not match the notification (22.1% of the 68 violations). Regarding the 72 violations of the *Employment Relations Act* (which concerns violations concerning the posting of workers from Slovenia), the majority concerned an employment contract for a posted worker which did not contain all compulsory information (88.9% of the 72 violations).

In 2023, the *SLA* in **Slovakia** shortened the validity period of 28 757 PDs A1 and 774 PDs A1 were withdrawn. Furthermore, 29 infringements were found by the *Labour Inspectorate* in inspections related to the enforcement of the posting rules.

Finally, **Spain** reported 54 infringements found during 892 inspections carried out by the *OEITS*, giving an infringement rate of 6.1%. Out of these 54 infringements, 29 concerned posting declarations, 15 labour conditions, and 10 undeclared work. It reported € 223 884 in terms of sanctions imposed.

Conclusion

The recent Letta Report ‘Much more than a Market’ (2024: 104) formulates the following recommendation: “*An EU level regular review and benchmarking of the resources of national inspectorates across the European Union would help address capacity gaps of the competent national authorities in tackling fraud and undeclared work across the Union.*”

With this thematic paper, we have taken an initial step towards realizing this recommendation. The paper aims to serve as a stepping stone for the systematic collection and reporting of inspection statistics at both national and European level concerning the enforcement of the posting rules.

However, the posting rules are only a small part of the broader framework of (cross-border) labour and social security legislation in force at national, European, and international level. Therefore, targeted enforcement of the posting rules and reporting on this is likely to remain limited in most Member States. Moreover, there is a much broader need for a systematic collection and reporting of inspection statistics on the enforcement of labour and social security legislation, both at national and European level.

1. Introduction

1.1 “No statistics, no reality, no problems”: research questions

In her article ‘Even rules, uneven practices: Opening the ‘black box’ of EU law in action’, Versluis (2007: 50) argues that *“there is relatively little insight into how European legislation is applied in practice, that is, how regulators enforce it and how the regulated comply with it”* (i.e., ‘law in action’ – see below). According to Rennuy (2020: 219), *“the same holds for the practical implementation of the posting rules.”* In reply to this observation, this thematic paper aims to make a tentative analysis of the possible gap between ‘law in books’ and ‘law in action’ as regards the application of the EU posting rules due to issues of non-compliance and non-enforcement^{32,33}, both from a social security and labour law perspective. This is done by collecting and reporting inspection statistics on the enforcement of the posting rules.³⁴

This thematic paper has two main objectives. Firstly, it aims to explore strategies, both at national and European level, for enhancing the collection of harmonised statistics on the enforcement of the posting rules. Indeed, (legal) concepts such as ‘inspector’, ‘inspection’ and ‘infringement’ are difficult to define and might differ across enforcement bodies and thus Member States. As a result, there is a risk of comparing ‘apples with oranges’ when trying to make a comparative analysis of inspection statistics reported within and between Member States.³⁵ Secondly, it aims to collect, present and discuss statistics on the enforcement of the posting rules in the 11 Member States covered by the POSTING.STAT 2.0 project³⁶ (Austria, Belgium, France, Germany, Italy, the Netherlands, Lithuania, Poland, Slovakia, Slovenia and Spain). One of the main goals of the thematic paper is to increase empirical evidence on the level of non-compliance with the posting rules and its enforcement. Indeed, according to our knowledge, there are hardly any statistics on this at European level and its availability seems to vary greatly across Member States. This possibly points to a lack of monitoring of the enforcement of the posting rules and therefore gives the impression of: *“No statistics, no reality, no problems”*.³⁷ Inspection statistics, of course, show only the ‘tip of the iceberg’: they say nothing about the overall scale of infringements that occur in case of intra-EU posting nor about all types of infringements that occur. Moreover, inspection statistics might be biased which may (greatly) overestimate the extent to which intra-EU posting is subject to infringements. After all, inspections will mostly take place on the basis of a risk assessment (by the labour inspector, by data matching or data mining, or based on a complaint), and mostly in ‘risk sectors’ (e.g., the construction sector).

32 This will also allow us to look at how to narrow the gap between ‘law in the books’ and ‘law in action’. For instance, in the Commission Staff Working Document accompanying the Report on the application and implementation of Directive (EU) 2018/957 (European Commission, 2024b) it was mentioned that *“According to the study supporting the monitoring of the PWD and the Enforcement Directive, an appropriate level of sanctions and enhanced labour inspection activities can effectively incentivise compliance and deter illicit behaviour. The study mentions some significant barriers to understanding whether the existing sanctions in the law are sufficient to deter unlawful practices. These barriers include the low share of labour inspections conducted to control compliance with posting regulations as a proportion of the total inspections carried out, ...”*.

33 For instance, the OECD Regulatory Enforcement and Inspections Toolkit (2018) puts following interesting question: *“Are enforcement and inspection aspects reviewed during the Impact Assessment for regulations, and considered in ex post review of regulations?”*. It is argued that *“In principle, ex post reviews should also be looking at enforcement and broader implementation questions. However, available evidence suggests that specific attention is not always paid to these issues”* (OECD: 2018:14).

34 An alternative method is to collect qualitative information based on interviews (see for instance, Lasek-Markey, 2024).

35 <https://ilostat.ilo.org/blog/safety-in-numbers-what-labour-inspection-data-tells-us/>

36 For more information about the POSTING.STAT 2.0 project see: <https://hiva.kuleuven.be/en/research/theme/welfarestate/p/POSTING-STAT20>

37 Well-reflected in the following citation from Heindlmaier and Kobler (2022: 13): *“Interestingly, the number of controls of brokering agencies for the placement of live in care workers is not statistically recorded by the Financial Control of Undeclared Work Unit. This suggests that brokering agencies are rarely monitored and that controls in the live-in care sector are de facto non-existent. In sum, there is a lack of willingness for police patrol in the live-in care sector.”*

Main research questions:

- *How to collect harmonised inspection statistics on the enforcement of the posting rules?*
- *Which inspection statistics on the enforcement of posting rules are currently available in the Member States covered by the POSTING.STAT 2.0 project? And what do these inspection statistics tell us about the level of enforcement and compliance with these rules?*

1.2 Research methodology

Several activities are carried out to answer the above research questions.

1.2.1 Desk research

First, in developing a methodological framework for collecting harmonised inspection statistics on the enforcement of the posting rules, a scan of existing publications that address this topic is made. For instance, reference can be made to two relevant publications of the ILO. Firstly, there is the guide on the collection and use of labour inspection statistics (ILO, 2016a) and secondly there is the guide on the harmonization of labour inspection statistics (ILO, 2016b).³⁸ The latter report is also useful for defining relevant indicators that can be asked in the survey (see below) as well as for defining terms such as ‘inspector’, ‘inspection’, ‘infringement’, and ‘sanction’. Ensuring the quality of (enforcement) statistics also requires compliance with a number of basic principles (i.e., these statistics should be ‘relevant’, ‘accurate’, ‘reliable’, ‘timely’, ‘complete’, ‘accessible’ and ‘consistent’) which are applied by national, European and international statistical offices and thus useful to refer to in this thematic paper.

1.2.2 Survey

The aim of the survey is to collect inspection statistics on the enforcement of the posting rules. The question arose which indicators and therefore questions should be asked. As well as to which period the requested data should apply. In addition, it was important that the content of the questionnaire was clear. This made it necessary to clearly explain the scope of the questionnaire, in particular what can be understood by the notion of ‘posting rules’ as well as all notions used in the questionnaire.

The POSTING.STAT 2.0 project officially started in April 2024. In the first two weeks of April, the authors of the thematic paper prepared a first draft of the questionnaire, which was sent for feedback to all partners in the POSTING.STAT 2.0 project (see *Annex I*). Based on their feedback, the questionnaire was finalised (see *Annex II*) so that the data collection could start by the end of April. National experts were asked to return a first version of the completed questionnaire by the end of May, allowing the first results of the data collection to be presented at the webinar held on 11 June (see below). The final responses to the questionnaire were sent by the national experts in early July.

The aim of the questionnaire is to collect data for reference year 2023 on the number of inspections, the number of (labour) inspectors involved, the outcome of the inspections, the sanctions imposed, and the recovery of the financial sanctions. Where relevant and feasible, data on the enforcement of the labour and social security rules on the posting of workers should be disaggregated by enforcement body, matter (i.e., by law), sector of activity, and ‘sending’ versus ‘receiving’ perspective.

³⁸ Moreover, based on the ILO guide on the harmonization of labour inspection statistics, the ILO conducted a survey of a number of labour inspectorates concerning the indicators and criteria they use to measure the impact of their inspection activity, as well as its effectiveness, efficiency and penetration rate. The information and insights gained through this survey are published in a ILO report of 2022 (ILO, 2022).

1.2.3 Thematic webinar

A webinar on this topic was organised by HIVA-KU Leuven on 11 June 2024.³⁹ The webinar served a dual purpose. Firstly, it aimed to explore strategies, both at national and European level, for enhancing the collection of harmonised statistics on the enforcement of the posting rules. In that regard, Dirk Gillis' presentation addressed why it is so important to collect inspection data and why it is best to develop a methodology on this.⁴⁰ Next, Dominique Boels presented the experiences of the Social Information and Investigation Service (*SIIS*) regarding the collection of decentralised inspection statistics in Belgium and made some recommendations based on these experiences.⁴¹ Secondly, the webinar aimed to present and discuss some preliminary results of the collection of statistics on the enforcement of the posting rules in the Member States covered by the POSTING.STAT 2.0 project. These data were presented by Lynn De Smedt.⁴²

39 For more information about this webinar see <https://hiva.kuleuven.be/en/calendar/calendaritems/posting-stat-webinar-enhancing-the-collection-of-statistics-on-the-enforcement-of-the-posting-rules>

40 <https://hiva.kuleuven.be/nl/kalender/docs/dirk-gillis-hiva-ku-leuven.pptx>

41 <https://hiva.kuleuven.be/nl/kalender/docs/dominique-boels-siis.pptx>

42 <https://hiva.kuleuven.be/nl/kalender/docs/lynn-de-smedt-hiva-ku-leuven.pptx>

2. Developing a methodology for the collection of harmonised inspection statistics on the enforcement of the posting rules

2.1 What are inspection statistics?⁴³

Statistics is a field of study concerned with the collection, analysis, interpretation, and presentation of data. It provides methods to collect and report data, enabling to make informed decisions based on empirical evidence rather than intuition or anecdote. It differs from raw data⁴⁴ in that it involves analytical processes and methodologies used to extract meaningful insights.⁴⁵

‘Inspection statistics’ refer to the quantitative data generated from the process of conducting inspections.^{46,47} Indeed, administrative data⁴⁸, and particularly labour inspection records, can be used to derive inspection statistics, despite having been created for administrative purposes (ILO, 2016a). Inspection statistics typically include data such as the number of inspections carried out, the number of inspectors involved, the nature of these inspections, the compliance rate, violations identified, the overall results of the inspection activities, and the actions taken in response to violations discovered during inspections.⁴⁹

Inspection statistics can be divided into different groups of indicators⁵⁰: ‘resource indicators’, ‘indicators of the work carried out’ and ‘efficiency and quality indicators’ (see Box I, based on ILO, 2016a). The questionnaire sent to the national experts for the collection of inspection statistics on the enforcement of the posting rules contains only one ‘resource indicator’, namely the number of inspectors involved (see *Annex II*). Although there are certainly other relevant resource indicators, such as the number of supporting administrative staff, the ratio between the number of inspectors involved and the total number of incoming/outgoing posted workers/posting companies, the growth

43 For more information about the collection and reporting of ‘labour inspection statistics’, see following two reports published by the ILO: “[Collection and use of labour inspection statistics: a short guide](#)” and “[Guide on Harmonization of Labour Inspection Statistics](#)”.

44 Raw data can be qualitative or quantitative and refer to unprocessed pieces of information collected from observations, surveys, or experiments. Raw data may not immediately offer insights or trends.

45 It also differs from facts. Facts are objective truths and are not subject to interpretation, while statistics involve analysing data to provide estimates or summaries, which can include uncertainty or be dependent on sample size and methodology.

46 Inspections involve examining, evaluating, or assessing an entity, process, or object to ensure it meets a specified set of standards, criteria, or regulations.

47 “If labour inspectorates register and record the data required for administrative purposes in accordance with certain guidelines, this data can be converted into statistical outputs that are potentially of great value, as they can help in the diagnosis of issues and the design of responses to priority problems.” (ILO, 2016a: 2).

48 Administrative data refer to units and data derived from an administrative source (UNECE, 2011; 2021). They are collected for the purposes of registration, transaction and record keeping, usually during the delivery of a service by the administrative source. They are not collected primarily for research or statistical purposes. They include administrative register data (with unique identifiers) and administrative transaction data.

49 For instance, in Article 20 and 21 of the ILO Convention 81 on Labour Inspection it is stated that an annual general report on the work of the labour inspection service should be published and should contain, among others, following information: staff of the labour inspection service; statistics of workplaces liable to inspection and the number of workers employed therein; statistics of inspection visits; statistics of violations and penalties imposed. Moreover, the ILO Labour Inspection Recommendation No 81 states that “the published annual reports on the work of inspection services should, in so far as possible, supply the following detailed information: (a) a list of the laws and regulations bearing on the work of the inspection system not mentioned in previous reports; (b) particulars of the staff of the labour inspection system, including: (i) the aggregate number of inspectors; (ii) the numbers of inspectors of different categories; (iii) the number of women inspectors; and (iv) particulars of the geographical distribution of inspection services; (c) statistics of workplaces liable to inspection and of the number of persons therein employed, including: (i) the number of workplaces liable to inspection; (ii) the average number of persons employed in such workplaces during the year; (iii) particulars of the classification of persons employed under the following headings: men, women, young persons, and children; (d) statistics of inspection visits, including: (i) the number of workplaces visited; (ii) the number of inspection visits made, classified according to whether they were made by day or by night; (iii) the number of persons employed in the workplaces visited; (iv) the number of workplaces visited more than once during the year; (e) statistics of violations and penalties, including: (i) the number of infringements reported to the competent authorities; (ii) particulars of the classification of such infringements according to the legal provisions to which they relate; (iii) the number of convictions; (iv) particulars of the nature of the penalties imposed by the competent authorities in the various cases (fines, imprisonment, etc.).”

50 Indicators can be measurements in total figures, ratios, or percentages. Indicators are ways of measuring or quantifying variables.

rate of the number of inspectors responsible for the enforcement of the posting rules, the financial sources allocated to the enforcement of the posting rules. Although some of these indicators can be calculated if figures reported on the number of inspectors/inspections and are confronted with some relevant indicators on the posting of workers (e.g., number of incoming/outgoing posted workers/posting companies) (for example, the ratio between the number of inspectors involved and the total number of incoming/ outgoing posted workers/posting companies). The following ‘indicators of the work carried out’ were retained for the questionnaire: number of inspections, outcome of the inspections, type of infringements, sanctions imposed, recovery of the financial sanctions imposed. Finally, efficiency and quality indicators (these can also be defined as ‘Key Performance Indicators -KPIs⁵¹⁾⁵² were not included in our questionnaire.

Box I – Type of indicators

Resource indicators provide information on the resources that are available to the enforcement body to carry out its mandate. It includes information regarding the human and financial resources of the enforcement bodies;

Indicators of the work carried out provide specific information on the enforcement body’s usual and current activities, including information on inspection actions. Indicators in this group include, for example: the number of proactive and reactive visits; the number of infringements identified; the complaints filed and treated; the reports completed; and the results and impact of labour inspection actions;

Efficiency and quality indicators provide information on how the enforcement body is doing its work.⁵³ They supply information on the reaction time of the labour inspectorate; the scope of the activities that it undertakes; the efficiency of the labour inspectors; and the impact that the labour inspection has on working conditions and the labour market.

Source: based on ILO, 2016a

Hence, one of the first steps that will have to be taken when implementing a methodology for collecting harmonised inspection statistics on the enforcement of the posting rules is to determine what indicators are needed to have at national and European level.

51 Key Performance Indicators (KPIs) are a means or an instrument of target setting which evaluate the success of an organisation in achieving its strategic objectives. For instance, a recent report published by ELA defines KPIs for measuring the effectiveness of labour inspectorates (Williams et al., 2023).

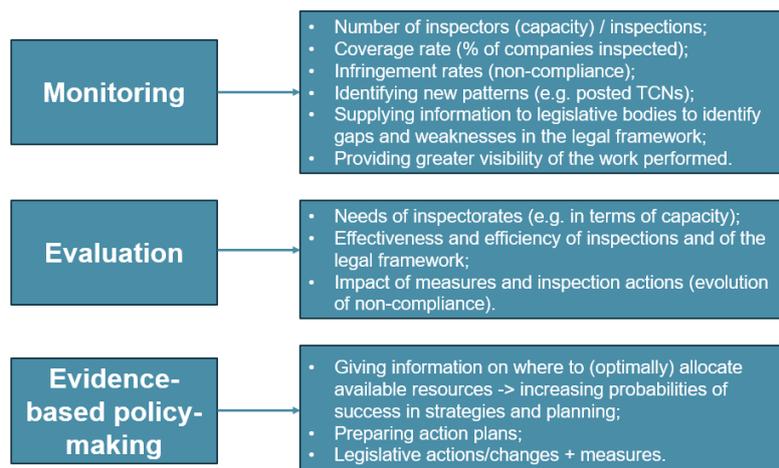
52 For instance, the OECD Regulatory Enforcement and Inspections Toolkit states that “In order for the inspection and enforcement system to be adequately designed and achieve the best balance of efficiency and effectiveness, it is necessary to properly consider whether inspections and enforcement would be needed for a proposed regulation, how they should be organised and resourced, what methods they should follow” (OECD, 2018: 14).

53 A 2022 ILO report further divide between ‘effectiveness indicators’, ‘efficiency indicators’ and ‘impact indicators’. **Effectiveness indicators** “describe the outcomes of labour inspectors’ actions. They may refer to outcomes in terms of inspectors’ decisions and achievements (corrections), or in terms of the extent or penetration of labour inspection actions with regard to a specific sector, territory, etc.” **Efficiency indicators** “show the ability of labour inspectorates to carry out actions that lead to the intended results and meet the required quality standards, given the available resources. The efficiency indicators analysed in this report are: the ratio of work demand to work really undertaken, the ratio of proactive to reactive inspection actions, response times, average times spent on inspection actions, and the particular use of efficiency indicators in inspection campaigns.” **Impact indicators** “are intended to measure the effects of inspection actions beyond their immediate beneficiaries. This means measuring the indirect effects on company workers, production units/workplaces other than those directly inspected, and on other companies. Impact indicators can be classified as relating to a single inspection action or as relating to compliance on a broader level.” (ILO, 2022).

2.2 Why is it useful to collect (harmonised) inspection statistics on the enforcement of the posting rules?

Mainly because of the limited human resources of enforcement bodies as well as the additional effort this requires, the collection and reporting of inspection statistics should add value and should not just be ‘nice-to-have’ or result in ‘data graveyards’.⁵⁴ Systematically collecting inspection statistics on the enforcement of posting rules can be justified for a number of reasons (see *Figure 1*).⁵⁵ The collection of inspection statistics should enable a better monitoring and evaluation at both operational and policy levels. For instance, inspection statistics can help to analyse which sectors or types of posted workers/intra-EU posting appear to be more prone to infringements to the posting rules. Inspection statistics should also enable evidence-based policy-making.⁵⁶ For instance, this can help to develop a strategic plan or action plan at national or even European level. Furthermore, an analysis of the inspection statistics could support the enforcement body’s action to reorganise its inspections with a view to concentrating more efforts on the sectors of activity or types of posted workers/intra-EU posting that seem to be most prone to infringements, and thus to a better allocation of financial and human resources. Moreover, enforcement bodies are mostly responsible for enforcing various labour and social security legislation. In that respect, it is interesting to know whether posting rules are less or more prone to violations compared to other labour and social security legislation. Finally, the collection of such data over a longer period of time can allow for the detection of certain trends and the evaluation of the effect and impact of policy measures and changes.⁵⁷

Figure 1. Why are (harmonised) inspection statistics useful?



54 Basically, by weighing the costs against the benefits: How many resources will it take to obtain this information?; What will we use it for?; Who can benefit from it?

55 See also Chapter 3 ‘Why are labour inspection statistics useful?’ in the ILO report (2016a) on the collection and use of labour inspection statistics.

56 For instance, the *OECD Regulatory Enforcement and Inspections Toolkit* (2018) presents a checklist of 12 criteria to help officials, regulators, stakeholders, and experts assess the level of development of the inspection and enforcement system in a given jurisdiction. One of these 12 criteria is ‘Evidence-based enforcement’. It is pointed out that “*regulatory enforcement and inspections should be evidence-based and measurement-based: deciding what to inspect and how should be grounded in data and evidence, and results should be evaluated regularly.*”

57 For instance, one of the major changes in the amended Posting of Workers Directive (PWD) is the change from the concept of ‘minimum rates of pay’ to ‘remuneration’. The change in the concept of remuneration in the PWD aims to bring posted workers’ wages closer to those that apply to local workers but also to other groups of mobile workers who make use of their freedom of movement (announced by the Commission under the slogan of ‘equal pay for equal work in the same workplace’). The question arises whether this is really the case in practice. Moreover, several new provisions are defined in the amended PWD in the case of ‘temporary agency posting’. For instance, the user undertaking is obliged to inform the temporary work agency of the terms and conditions of employment that it applies. In case of long-term posting, the amended PWD provides for the application of all of the mandatorily applicable terms and conditions of employment of the host Member State once the actual duration of the posting exceeds 12 months. However, the question arises how compliance with the provisions on long-term posting is monitored in practice.

2.3 Why do we need a methodology?

Currently, inspection statistics (on the enforcement of the posting rules) are hardly comparable within and across Member States, due to the use of different concepts, definitions, classifications, units of disaggregation, data collection instruments and procedures, etc. Consequently, there is a need for more comparability. The collection of harmonised inspection statistics should result into a similar understanding of concepts and thus a similar data collection and reporting process.

In the webinar organised in June 2024 on this topic, the vast majority of participants agreed that it is relevant to collect and report inspection statistics on the enforcement of the posting rules, both at national and European level. However, they were less optimistic about the feasibility of this exercise.

2.4 Defining the different steps to be taken

“At this moment, there is no standard methodology applicable to labour inspection statistics at the international level” (ILO, 2016b, 3). In that respect, the guide on the harmonisation of inspection statistics published by the ILO in 2016 is a useful working tool for those wishing to take steps forward on this issue at national and/or European level.

The process to develop inspection statistics from the administrative records involves a number of stages. Seven stages are defined in the ILO report on the collection and use of labour inspection statistics (2016a: Figure 1): 1. Identity objectives; 2. Design methodology, tools, and indicators; 3. Collect information; 4. Process and analyse information; 5. Present and communicate results; 6. Archive and store data; and finally, 7. Evaluate the findings. It is not our intention to discuss these one by one in this thematic paper. Rather, we think it is useful to discuss some of the key steps within these various stages.

2.4.1 Determining the inspection indicators

One of the first steps that will have to be taken when implementing a methodology for collecting harmonised inspection statistics on the enforcement of the posting rules is to determine what indicators (i.e., ‘resource indicators’, ‘indicators of the work carried out’, ‘effectiveness indicators’, ‘efficiency indicators’ and ‘impact indicators’) are needed to have at national and European level. A selection of these indicators that are really needed should be made. For instance, following questions could be asked: What do we need to know?; What would be nice to know? What information can we easily obtain from the administrative records? The decision about which indicators to retain can also be made by weighing the costs against the benefits: How many resources will it take to obtain this information?; What will we use it for?; What objectives are achieved by it? Who can benefit from it?

2.4.2 Determining the definition/scope of the inspection indicators

A main issue hindering a consistent and coherent collection and reporting of inspection statistics across Member States and for comparisons is the use of different concepts and definitions. It is important to reach a common agreement regarding the concepts used for the inspection indicators as well as their definition/scope. For example, when defining ‘resource indicators’, the question arises which groups of ‘human resources’ should be included (the entire staff or only ‘inspectors’ and therefore excluding administrative staff). Moreover, it is likely that the definition of the term ‘inspector’ differs greatly between enforcement bodies.⁵⁸ A similar discussion occurs regarding the

⁵⁸ See ILO definition (2016b: 10): “Labour inspectors are public officials (men and women) named or recruited as labour inspectors (including sub-inspectors, labour controllers, or similar categories) and who undertake advisory, control and monitoring tasks with respect to labour laws and regulations, and who are responsible for initiating sanction procedures in the event of an infringement.”

demarcation and definition of the concept of ‘inspection’. In particular, should a broad (i.e., any inspection ‘action’)⁵⁹ or narrow approach (i.e., limited to inspection ‘visits’)⁶⁰ be applied?

How challenging it is to define common concepts is also demonstrated by the answers to the questionnaire sent out to the national experts involved in the POSTING.STAT 2.0 project. All definitions which were reported in the questionnaire are provided in *Annex III* (see *Table a2* for the notion of inspector, *Table a3* for inspection, *Table a4* for infringement, *Table a5* for sanction, and *Table a6* for recovery). An important remark is that in several Member States, these notions are not legally defined. Therefore, the definition might also differ between enforcement bodies in the same Member State for instance.

Regarding the notion of **inspector** (see *Table a2*), many Member States mention that it concerns a person with the enforcement body to carry out inspections, while in other Member States it can also include persons tasked with other activities such as administrative tasks. One can indeed wonder whether it is useful to only capture the inspectors ‘in the field’ or to take into account the entire ‘staff of the enforcement body’. This question arises, for example, in the case of public administrations authorised to issue the PD A1.⁶¹ Indeed, the staff members of these public administrations cannot really be considered ‘inspectors’ while they perform an important task in terms of enforcing the correct application of the ‘posting conditions’⁶² before granting a PD A1 according to Article 12 of Regulation 883/2004. Finally, the concept is certainly not legally defined in every Member State, and its delineation often depends on the legislation that is enforceable.

In general, the reporting Member States define an **inspection** (see *Table a3*) as a way to ensure compliance with the legislation. Several Member States provide a list of all the elements which are examined in the context of an inspection, or even more specifically, the parameters to check whether a posting is ‘genuine’ or not. Furthermore, several Member States mention that an inspection can take on different forms such as a control (one moment) versus an investigation, an on-site control/company visit versus desk research (for instance, before issuing a PD A1), and an unplanned versus planned inspection.

The definition of an **infringement** (see *Table a4*) is rather short and uniform for all reporting Member States. It concerns any violation against the rules, or when an inspection leads to subsequent steps.

Concerning the notion of a **sanction** (see *Table a5*), the reporting Member States are again more or less in agreement. It is mostly defined as a (requested) penalty or legal consequence of an infringement. Several Member States provide an enumeration of the different types of sanctions, including a warning, a criminal record, a fine, etc.

Finally, the concept of **recovery** (see *Table a6*) seems harder to properly define. While some Member State use a straightforward definition of a back payment or a fine, others make a distinction between different types of recovery, such as unpaid social security contributions, unpaid wages, or the rectification of rights/duties of citizens. It is also mentioned by some Member States how the recovery can take place, which can often happen in different ways.

⁵⁹ See ILO definition (2016a: 10): “An inspection action occurs every time that one or more inspectors carry out a singular and distinct action to determine compliance with labour legislation, whether proactive or reactive. Inspection actions include inspection visits, preventive or advisory services, document checks, and procedures among other possible actions”.

⁶⁰ See ILO definition (2016a: 10): “An inspection visit occurs every time one or more inspectors visit an economic unit in person to verify compliance with labour legislation. An inspection visit is a specific type of inspection action.”

⁶¹ Moreover, these public administrations may not really consider themselves as an ‘enforcement body’ either.

⁶² Pursuant to Article 12 of Regulation 883/2004 and Articles 14 (1) and (2) of Regulation 987/2009 there are several conditions, to be fulfilled cumulatively, for the proper use of posting under the Coordination Regulations: 1) the employer must normally carry out its activities in the country of establishment; 2) there is a direct relationship between the posting employer and the posted worker; 3) the posted worker is already affiliated to the legislation of the country in which his/her employer is established; 4) the posting is of a temporary nature (not exceeding 24 months); 5) the posted worker is not being sent to replace another posted worker.

2.4.3 Administrative data as the main data source for collecting and reporting inspection data

An administrative data process (for instance, carrying out inspections and their follow-up) produces statistics based on administrative data collected by organisations for administrative and thus mostly non-statistical purposes (UNECE, 2011; 2021). This implies that only these variables/indicators collected for administrative purposes are available and thus can be analysed and reported.⁶³ No sampling is normally involved in this type of process. Moreover, data are produced by the internal processes of the organisation. These processes should be described and the quality of the data they produce should be assessed (i.e., ‘metadata’)⁶⁴, just as for survey data.

Information on inspections and their follow-up may be kept electronically today although it cannot be ruled out that (some of) the information is still only reported and processed on paper.

2.4.4 The importance of the meta data report

Even if an agreement is reached at national and European level regarding which inspection indicators should be used, it is still unlikely that this will result in the reporting of harmonised inspection statistics in the short and long term. What is more likely is that the available inspection statistics converge and therefore become more comparable. Moreover, for some inspection indicators it will still be advisable not to compare them with each other even when it concerns harmonised indicators. After all, there is a strong and increasing use of risk analysis in the selection of inspections. In that case, an inspection will only take place in those cases where there is an increased risk of a violation. Of course, such a methodology increases the chance that an infringement is identified and therefore also effects the infringement rate. Collecting and reporting information regarding the methodology for the selection of inspections (random or selective) is therefore highly recommended. Reporting all the limitations and nuances of the collected inspection statistics should therefore be a major concern.

2.4.5 Ensuring data quality in the collection of harmonised inspection statistics

Article 12 of Regulation (EC) No 223/2009 on European statistics amended by Regulation 2015/759 defines several ‘quality criteria’ that should be respected when statistics are collected, produced and disseminated.⁶⁵ They are an important reference point when drafting metadata reports (Eurostat, 2020). These quality criteria could also be applied when collecting and reporting harmonised inspection statistics on the enforcement of the posting rules.⁶⁶

- **Relevant:** The data must be related to the objectives of the institution concerned and meet its needs or help to identify present or upcoming needs. There is no point in collecting vast information on numerous topics if there is no clear use for this data within the institution and/or among its partners. As already stated, the collection of inspection statistics on the enforcement of posting rules can benefit the enforcement bodies involved but equally policy

63 A key advantage of sample-based surveys is that they allow for the inclusion of a wider range of variables.

64 The term ‘metadata’ refers to descriptions of the statistical process and the concepts underlying its outputs and their quality (Eurostat, 2020).

65 “To guarantee the quality of results, European statistics shall be developed, produced and disseminated on the basis of uniform standards and of harmonised methods. In this respect, the following quality criteria shall apply: (a) ‘relevance’, which refers to the degree to which statistics meet current and potential needs of the users; (b) ‘accuracy’, which refers to the closeness of estimates to the unknown true values; (c) ‘timeliness’, which refers to the period between the availability of the information and the event or phenomenon it describes; (d) ‘punctuality’, which refers to the delay between the date of the release of the data and the target date (the date by which the data should have been delivered); (e) ‘accessibility’ and ‘clarity’, which refer to the conditions and modalities by which users can obtain, use and interpret data; (f) ‘comparability’, which refers to the measurement of the impact of differences in applied statistical concepts, measurement tools and procedures where statistics are compared between geographical areas, sectoral domains or over time; (g) ‘coherence’, which refers to the adequacy of the data to be reliably combined in different ways and for various uses.”

66 These quality indicators are also referred to in the ILO report (2016a) on the collection and use of labour inspection statistics.

makers at national and European level as well as other stakeholders (e.g. social partners). Having a clear legal basis is also important when announcing to collect such statistics.⁶⁷

- **Accurate and reliable:** The data must accurately describe the situation they are trying to measure. Users should be able to trust and not question the data.
- **Timely:** Information needs to be collected with a specific periodicity, updated and reported regularly. The timeliness of information will influence its relevance.
- **Complete:** The coverage of the data should be comprehensive. That is, all the units in the universe of the source should be covered; there should not be any missing units. Ideally, there should also be as few missing variables for each unit as possible, and the main variables should never be missing. Data can only be comparable and reliable if they are complete and comprehensive.
- **Accessible:** The data contained in the register should be readily available, and stored in a format that favours their use for statistical purposes, such as a database. A suitable format for the register would also facilitate the regular updating of its data.
- **Consistent:** The labour inspectorate needs to use standardized data collection methods and concepts to ensure that they are consistent across records within the labour inspectorate and with sources from other agencies. This would ensure comparability of data across sources and robustness over time and prevent misinterpretations.

2.5. From methodology to operationalisation: challenges and recommendations

Challenge 1: Gain trust of the enforcement bodies involved

- The importance of having a validation trajectory:
 - Various stakeholders at national and European level could be involved in defining relevant inspection indicators. Moreover, inspectors, as the actual data collectors in the field, should also be directly involved in this process. It is important that there is a general approval of the selected inspection indicators, though in particular from the national enforcement bodies that will have to collect and report the data. Such support is needed at all levels of the inspection services (management, IT and inspectors).
 - It is advisable that a draft version of the reporting of the harmonised inspection statistics on the enforcement of the posting rules is provided for advice and review to the enforcement bodies involved. This way they can correct possible errors, suggest adjustments, and provide further explanations and nuances.
- The importance of open and transparent communication toward the enforcement bodies involved:
 - Explain to the enforcement bodies what the inspection data will and will not be used for. For instance, make clear that the objective is not to compare the functioning of enforcement bodies.
 - Do not overload the enforcement bodies with work and additional tasks and questions.
 - Give enforcement bodies sufficient time to implement what has been decided and do not make changes every year to the inspection statistics to be collected.

⁶⁷ Which is (partly) the case for the collection of inspection statistics on the enforcement of the posting rules (for example, in the context of a review of the application and implementation of the Enforcement Directive (see Art. 24 of Directive 2014/67/EU) or of the amended PWD (see Art. 3 of Directive 2018/957)).

Challenge 2: There will always be differences

- Towards convergence rather than harmonization:
 - Accept that notions can be defined differently across the different enforcement bodies: “*working towards the same goal while respecting each other differences*”.⁶⁸
- Always make these differences clear in the reporting.

Challenge 3: The limitations of quantitative data

- Collect additional qualitative data so that the context as well as findings and trends can be better explained:
 - Provide the possibility to provide additional explanation with the reported data
- Try to avoid late reporting or corrections of the data.
- Implement a method that makes it easy to report, process and analyse inspection data.

⁶⁸ A quote from Dominique Boels (SIS) during her presentation in the webinar organised in June 2024 on this topic.

3. Inspection statistics on the enforcement of the posting rules: an overview

All 11 Member States (Austria, Belgium, Germany, Spain, France, Italy, Lithuania, the Netherlands, Poland, Slovenia, and Slovakia) involved in the POSTING.STAT 2.0 project were asked to fill out a questionnaire for collecting inspection statistics regarding the posting workers in their respective Member State. This questionnaire was filled out by the national experts (*Annex I*) based on desk research⁶⁹ and additional information data received from the enforcement bodies involved.

The questionnaire can be found in *Annex II*. First, it asks Member States to provide an overview of the enforcement bodies involved in the enforcement of the labour and social security rules on the posting of workers in their country. It was then asked to report inspection statistics on the enforcement of the posting rules, more specifically on the number of inspectors, the number of inspections carried out, the outcome of these inspections, the number and type of infringements detected, the number of sanctions imposed, and finally data on the recovery of the sanctions imposed.⁷⁰ All these different elements are discussed below. However, it is crucial to mention that several Member States reported that the inspection statistics in the questionnaire only look at posting from one perspective. For instance, for Austria, Belgium, and France the statistics only refer to the inbound perspective, so only concerning incoming postings.

For other Member States interesting information is sometimes available as well. More specifically, for Luxembourg and Switzerland, recent annual reports are available.⁷¹ Therefore, wherever possible and useful, information on the enforcement of the posting rules in these Member States is mentioned in a footnote as well.

3.1 Enforcement bodies involved

In this section, the enforcement bodies involved in the enforcement of the posting rules are provided (*see also Annex III – Table a1*).^{72,73} It should be noted that it does not provide an exhaustive overview of all enforcement bodies active in the different Member States.⁷⁴ For more information on the different enforcement bodies by Member State, we refer to the national reports of the POSTING.STAT 2.0 project.⁷⁵ The aim of this section is to give a general overview of the enforcement bodies involved and see how they differ between Member States.

69 For instance, reference can be made to following reports: for Belgium: [SIOD \(2024\). Jaarrapport Sociale Dumping 2023 / SIRS \(2024\). Rapport Dumping Sociale 2023](#); for France: [DGT \(2023\). Plan national de lutte contre le travail illégal \(2023-2027\)](#); [Urssaf \(2024\). Bilan 2023 de la lutte contre le travail dissimulé](#); for the Netherlands: [SVB \(2024\). Jaarverslag 2023](#); [SNCU \(2024\). Jaarverslag 2023](#); [Nederlandse Arbeidsinspectie \(2024\). Jaarverslag 2023](#); for Austria: [Riesenfelder, A. & Reichert H. \(2021\). Lohn- und Sozialdumping in Österreich. Eine Studie vor dem Hintergrund der 10-jährigen Arbeitsmarktöffnung.](#)

70 Furthermore, seeing that there are no harmonised definitions of the terminology of 'inspector', 'inspection', 'infringement', 'sanction', or 'recovery', national experts involved in the POSTING.STAT 2.0 project were asked to provide the definition of these concepts used in their Member State. This information is reported in the previous Chapter.

71 For Luxembourg it concerns the annual report from the 'Inspection du travail et des mines (ITM)' from 2022 and 2023. See <https://itm.public.lu/fr/publications.html>. For Switzerland, it concerns the 2023 report from the 'SECO Direction du travail' 'Mise en oeuvre des mesures d'accompagnement à la libre circulation des personnes entre la Suisse et l'Union européenne'. See https://www.seco.admin.ch/seco/fr/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/Arbeit/Personenfreizuegigkeit_und_Arbeitsbeziehungen/berichte-des-seco-ueber-den-vollzug-der-flankierenden-massnahmen/flam-bericht_2023.html

72 The enforcement bodies that were mentioned in the questionnaire by the national experts are reported here. However, there are a number of other interesting sources that can be referred to. For instance, the E-Handbook on Cross-border Enforcement is an interesting additional data source. The last version was published in 2023 in the Library of the SLIC public site on the EU collaborative platform [CIRCABC](#). Furthermore, the European Labour Authority (2024) published a list of the public authorities involved in the enforcement of labour Law and the social security coordination rules.

73 An overview is also published in a separate [Excel document](#).

74 As already mentioned, the delineation of the term 'enforcement body' is also food for discussion. For example, what to do with the public administrations authorised to grant a PD A1? For example, the following answer was given by the national experts of Lithuania: "The Vilnius division [competent to issue the PD A1] claimed to be working with documentation checks only. Therefore to their understanding they do not carry out any inspections". Moreover, while the social partners in the Netherlands monitor compliance with the collective labour agreement (CLA) conditions, also for posted workers, they are not included in *Annex III - Table a1*.

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

In none of the Member States concerned is there an enforcement body with exclusive competence to enforce the labour and social law aspects of the posting rules. Often, the enforcement of the posting rules falls into a much broader set of national and transnational labour and social security legislation that these enforcement bodies are required to enforce. However, specialised teams do exist within some enforcement bodies that focus exclusively on the enforcement of the posting rules.

Within a single Member State, several enforcement bodies are often involved in the enforcement of the posting rules by taking responsibility for one or more aspects (e.g., for instance, focus on the enforcement the Regulations on the coordination of social security systems, the Posting of Workers Directive, the Directive on posting drivers in the road transport sector, etc.). Moreover, some enforcement bodies will only look at the outbound perspective of posting (e.g., the issuance of the PD A1) whereas other enforcement bodies will only look at the inbound perspective (e.g., enforcement of wage and working conditions of incoming posted workers). Finally, enforcement bodies operate at different levels, notably at federal level, regional level, and sectoral level. An attempt has been made below to map the enforcement bodies involved according to all these dimensions.

3.1.1 Inbound versus outbound perspective

First, a division can be made between the inbound and outbound perspective. For the **outbound perspective**, the main focus is likely to be on enforcing compliance with the social security rules of posting. The competent institutions are expected to check the 'posting conditions'⁷⁶ before issuing a PD A1 according to Article 12 of Regulation 883/2004. The enforcement bodies responsible for **checking the posting conditions and issuing a PD A1** in the Member States concerned are the National Social Security Office (*RSZ/ONSS*) and the National Institute for Social Insurance of the Self-Employed (*RSVZ/INASTI*) in Belgium; the Austrian Health Insurance Fund (*ÖGK*), the Social Insurance Institutions for the Self-Employed (*SVS*), and the Insurance Institute for Public Servants, Railways and Mining (*BVAEB*) in Austria; the Health Insurance companies, the Germany Pension Insurance (*DRV*), and the Pension Schemes of the liberal professions (*ABV*) in Germany; the General Treasury of the Social Security (*TGSS*) in Spain; the Union for the Collection of Contributions to Social Security and Family Allowances (*URSSAF*) and the Agricultural Social Security Fund (*MSA*) in France;⁷⁷ the National Institute of Social Security (*Istituto nazionale della previdenza sociale – INPS*) in Italy; the Vilnius Division of the State Social Insurance Fund Board (*Sodra Vilnius division*) in Lithuania; the Social Insurance Bank (*SVB*) in the Netherlands; the Social Insurance Institution (*ZUS*)⁷⁸ and the Agricultural Social Insurance Fund (*KRUS*) in Poland; the Health Insurance Institute (*ZZZS*) in Slovenia; and the Social Insurance Agency in Slovakia.⁷⁹

Regarding the **inbound perspective**, the following enforcement bodies can be retained for Belgium: the Directorate General for Supervision of Social Law (*TSW/CLS*) and the Directorate General Control on well-being at work (*TWW/CBE*) of the FPS Employment, Labour and Social Dialogue, the inspectorate of the National Social Security Office (*RSZ/ONSS*), the inspectorate of the National Institute for Social Insurance of the Self-employed (*RSVZ/INASTI*) and the regional inspectorates. For Austria, the following enforcement bodies are involved: the labour inspectorate, the Financial Police, the Construction Workers Annual Leave and Severance Pay Fund (*BUAK*), the

76 Pursuant to Article 12 of Regulation 883/2004 and Articles 14 (1) and (2) of Regulation 987/2009 there are several conditions, to be fulfilled cumulatively, for the proper use of posting under the Coordination Regulations: 1) the employer must normally carry out its activities in the country of establishment; 2) there is a direct relationship between the posting employer and the posted worker; 3) the posted worker is already affiliated to the legislation of the country in which his/her employer is established; 4) the posting is of a temporary nature (not exceeding 24 months); 5) the posted worker is not being sent to replace another posted worker.

77 See <https://www.cleiss.fr/reglements/a1.html> (and *ENIM* for the seafarers). However, the [EC's webpage](#) with an overview of competent authorities in France also lists the following authorities: Caisse Primaire d'Assurance Maladie (*CPAM*); Agences de sécurité sociale pour les travailleurs indépendants.

78 One could make use of the A1 Certificate authenticity confirmation service (the so-called 'Validator ZUS' – 'ZUS Validator Device'), provided for by the ZUS. The service enables the verification and confirmation of the authenticity of the PD A1 concerning the social security legislation which applies to the holder. The service also informs about the validity of the PD A1.

79 For an overview of all competent authorities in the EU, see https://europa.eu/youreurope/citizens/work/social-security-and-benefits/social-security-forms/contact_points_pd_a1.pdf

Competence Centre for Combating Wage and Social Dumping (*LSDB CC*), the District administrative authorities. The Federal Customs Administration, the trade supervisory offices, the social accident insurance institutions (*BG*) and the Federal Office for Logistics and Mobility (*BALM*) are the enforcement bodies involved in Germany. For Spain, it concerns the National Labour and Social Security Inspectorate State Agency (*OEITSS*) and the regional labour inspectorates. In France, the Directorate General of Labour (*DGT*) and the Union for the Collection of Contributions to Social Security and Family Allowances (*URSSAF*) are the main enforcement bodies from an incoming perspective. For Italy, the following enforcement bodies are involved: the National Labour Inspectorate (*INL*), the Interregional labour directorates (*DIL*), the Metropolitan area inspectorates (*LAM*), the territorial labour inspectorates (*ITL*), the Financial Police and the Carabinieri Command for the Protection of Labour. The State Labour Inspectorate under the Ministry of Social Security and Labour (*SLI*) has an important role to play in the enforcement of incoming posted workers in Lithuania. Furthermore, the following enforcement bodies can be retained for the Netherlands: the Netherlands Labour Authority (*NLA*), the Association for the Enforcement of Collective Agreements for Temporary Agency (*SNCU*), the Tax and Customs Administration, the Immigration and Naturalisation Service (*IND*). The State Labour Inspection (*PIP*), the Chief Inspectorate of Road Transport (*GITD*) and the Social Insurance Institution (*ZUS*) play an important role in the enforcement of incoming posted workers in Poland. Finally, the Labour Inspectorate of the Republic of Slovenia (*IRSD*) and the National Labour Inspectorate are the main enforcement bodies from an inbound perspective in Slovenia and Slovakia, respectively.

Finally, several enforcement bodies have competences both for incoming and outgoing postings. For instance, this is the case for the National Labour and Social Security Inspectorate State Agency (*OEITSS*), the Catalanian Labour Inspectorate (*ITC*), and Basque Country labour Inspectorate (*LIT*) in Spain; the Union for the Collection of Contributions to Social Security and Family Allowances (*URSSAF*) in France; the National Social Security Office (*NSSO*) in Belgium; the Social Insurance Bank (*SVB*) in the Netherlands; the State Labour Inspection (*PIP*) and the Social Insurance Institution (*ZUS*) in Poland.

3.1.2 By federal, regional, or sectoral level

All reporting Member States have **federal enforcement bodies** which are tasked with the enforcement of the labour and social security legislation on posting. In addition to federal enforcement bodies, several Member States mention **regional bodies** as well. Here, a distinction should be made between mere regional enforcement bodies versus federal enforcement bodies further divided into regional enforcement bodies. Let us start with some examples of purely regional enforcement bodies. For instance, in order to be able to post agency workers to Belgium, a foreign temporary employment agency should have accreditation from the Belgian region in which the work is performed. This falls within the competence of the different Regions and Communities concerned in Belgium (i.e., Flemish Region, Walloon Region, Brussels Capital Region and German-speaking Community). In Spain, in Catalonia and the Basque country, there are regional inspectorates coexisting with the *OEITSS* in their respective territories (*Inspección de Trabajo de Cataluña (ITC)* and *Inspección de Trabajo del País Vasco (LIT)*). Although all the inspectors and deputy inspectors in these territories have the same competences, regional inspectors are more focused on labour relations, employment policies and occupational safety and health (OSH) matters while national inspectors and deputy inspectors of the *OEITSS* are more focused on social security and TCNs matters. The District administrative authorities (*Bezirksverwaltungsbehörden*) in Austria operate on a local level and have competences regarding incoming posted persons on labour and OSH. Next, there are enforcement bodies which are organised on a federal level, but which are divided into regional enforcement bodies. The Italian National Labor Inspectorate (INL) is made up of three interregional labour directorates (*Direzioni interregionali del lavoro: Interregional Directorate of the North; Interregional Directorate of the Centre; Southern Interregional Directorate*). At the territorial level, the Labour Inspectorate is made up of 11

metropolitan area inspectorates (*Ispettorati di area metropolitana*) and 55 territorial labour inspectorates (*Ispettorati territoriali del lavoro*). While the Interregional labour directorates (*DIL*) are organised on a regional level, the Metropolitan area inspectorates (*LAM*) and the Territorial labour inspectorates (*ITL*) are active on a provincial level. In Italy, the National Institute of Social Security (*INPS*), the Financial Police, and the Carabinieri Command for the Protection of Labour also have further subdivisions at regional and provincial level. Regarding the monitoring and enforcement, the most important level is the provincial one since in case of intervention the reference is to the province in which the sending or receiving company is based. Finally, in Germany, the Federal Customs Administration (*Bundeszolverwaltung*) is an enforcement body with regional, federal state, and local units which checks labour and working conditions and social security and social benefits of incoming posted persons among others. In relation to occupational as well as technical and environmental safety and health, trade supervisory offices (*Gewerbeaufsichtsämter*) and Social Accident Insurance Institutions (*BG*) are enforcement bodies at territorial and occupational level.

Certain Member States mention enforcement bodies which are **active on a sectoral level**. This can also be of interest for checking compliance with the posting rules, seeing that posting is more common in certain sectors than others, for instance in construction and road freight transport. Here again, it is best to distinguish between enforcement bodies that focus purely on a specific sector and enforcement bodies within which specific teams exist that focus on a sector. In Austria, the Construction Workers Annual Leave and Severance Pay Fund (*Bauarbeiter Urlaubs- und Abfertigungskasse – BUAK*) inspects companies in the construction sector. BUAK inspectors control whether posted workers and their employers have the required documentation and are paid the correct wages. Germany mentions the Federal Office for Logistics and Mobility (*BALM – Bundesamt für Logistik und Mobilität*) which plays a role carrying out inspections on German federal highways and trunk roads. *BALM*'s inspection activities include so-called road inspections in accordance with the German Road Haulage Act (*GüKG*) and toll inspections in accordance with the German Federal Trunk Road Toll Act (*BFStrMG*). However, *BALM* is not directly involved in the implementation of the Directive (EU) 2020/1057 and the German Act on the regulation of the posting of drivers in the road transport sector and on the cross-border enforcement of the law on the posting of drivers. In Poland there is the Chief Inspectorate of Road Transport (*GITD*) which checks labour conditions of incoming posted persons in the transport sector. Finally, in Belgium, the Directorate-General for Supervision of Social Laws (*TSW/CLS*) has a specific 'transport' unit.

3.1.3 By type of legislation/competence

Finally, a division can also be made according to the powers of the enforcement bodies, in particular for which aspects of the posting rules they are authorised to enforce. Regarding the enforcement of **the Coordination Regulations**, the enforcement bodies involved from a sending perspective have already been listed above (*see 3.1.1*). However, of course, there are also enforcement bodies that will check compliance with the posting conditions in the receiving Member State (for instance, both the inspectorate of the National Social Security Office (*RSZ/ONSS*) and the inspectorate of the National Institute for Social Insurance of the Self-employed (*RSVZ/INASTI*) in Belgium, the unit 'Prevention & Enforcement Applicable Legislation' of the Social Insurance Bank (*SVB*) in the Netherlands and the Social Insurance Institution (*ZUS*) in Poland).

Regarding the enforcement of the **wage and working conditions** of posted workers as stipulated in the **Posting of Workers Directive**, one or more enforcement bodies can be identified in each of the host Member States (e.g., TSW/CLS (BE); the Financial Police (AT), BUAK (AT), LSDB CC (AT), FKS (DE), OEITSS (ES), DGT (FR), INL (IT), DIL (IT), IAM (IT), ITL (IT), SLI (LT), NLA (NL), PIP (PL), IRSD (SI) and the National Labour Inspectorate (SK)). This, of course, includes the enforcement of the rules on **occupational safety and health (OSH)**. In Austria, the Labour Inspectorate and the District administrative authorities control compliance with OSH standards and working time regulations. In Belgium, the Directorate General Control on well-being at work of the

FPS Employment, Labour and Social Dialogue (*TWW*) focusses on OSH, and in Germany this lies under the competences of the Trade supervisory offices, and the Social Accident Insurance Institutions (*BG*) for certain occupational groups/economic sectors. In Spain, there are two types of sub inspectors in the OEITSS: one is specialised in employment policies, enforcement of TCN workers rules and social security legislation (including the control of PDs A1), and another is specialised in OSH (including the OSH conditions of posted workers). In Italy, all labour inspectorates focus both on labour rules and OSH (*INL*, *DIL*, *LAM*, and *ITL*), and this is also the case for the State Labour Inspectorate under the Ministry of Social Security and Labour (*SLI*) in Lithuania, and the Labour Inspectorate of the Republic of Slovenia (*IRSD*).

In order to be able to post agency workers to Belgium, a foreign **temporary employment agency** should have accreditation from the Belgian region in which the work is performed. This falls within the competence of the different Regions and Communities concerned in Belgium (i.e., Flemish Region, Walloon Region, Brussels Capital Region and German-speaking Community). Furthermore, in the Netherlands, the *SNCU* plays an important role in the enforcement of collective agreements for posted temporary agency workers.

Furthermore, **migration services** might enforce particular rules for posted persons as well. For instance, the Immigration and Naturalisation Service (*IND*) in the Netherlands is reported. The latter uses data from the Dutch notification portal. In the procedure for an application for a residence permit for TCNs who want to stay longer than three months, the *IND* retrieves the notification from the Social Insurance Bank (*SVB*) to verify certain information provided by the posting company. This concerns a small number of applications per year. The notification in the notification portal is a mandatory part of the residence permit application. The *IND* checks the person and the place where they will work.

Certain **specific units within the enforcement bodies** mentioned are useful to highlight, as they are the units mainly focussing on enforcing the labour and social security legislation applicable to posting of workers. In Belgium, there is the unit 'Posted Workers' active in the Directorate-General for Supervision of Social Law of the FPS Employment, Labour and Social Dialogue, the unit 'Cross-border employment' (*GOT*) at the Inspectorate of the National Social Security Office (*NSSO*), the Directorate 'Fair competition' (*ECL*) at the Inspectorate of the National Institute for Social Insurance of the Self-Employed (*NISSE*). In Germany, from an incoming perspective, the Financial Control of Undeclared Work (*FKS*) is active in the Federal Customs Administration, a unit on Work and occupational health as well as technical and environmental safety and health in the Trade supervisory offices, a road control service at the Federal Office for Logistics and Mobility. In Spain, the EU Labour Mobility Unit is a special unit in the *OEITSS* to coordinate all inspection actions related to ELA and it is the national point to coordinate all the actions related to ELA. It concerns for instance organising and supporting campaigns on labour mobility, concerted and joint inspections and trainings and study visits with other EU inspectorates, establishing guidelines for inspections actions, advising in the implementation of regulations and dealing with other public bodies with competences on European labour mobility such as the Ministry of Transport, Social Security bodies, Employment Agency (specially with the EURES office), and the Secretary of State for Migrations. In the Netherlands, the specific units working on posting of workers in the enforcement bodies are the following: the Programme International, Fictitious Constructions, & Collective Labour Agreement Compliance (2019-2022) and Department/Subject Group Analysis & Research at the Netherlands Labour Authority (*NLA*), the Directorates of Implementation and Enforcement Policy at the Tax and Customs Administration, the Directorate Regular Residence and Dutch Citizenship, client group Extensions and Business (Labour, Knowledge & Talent, Study & Exchange) at the Immigration and Naturalisation Service (*IND*), and the Directorate of Social Insurance Services at the Social Insurance Bank (*SVB*). Furthermore, the 'Prevention and Enforcement' team within the *SVB* was established in September 2018 to intensify preventive and repressive enforcement of the provisions on applicable legislation in the Coordination Regulation. In Poland, there are several units active at the Social

Insurance Institution (ZUS). For instance, the ZUS Branch in Siedlce is handling requests from competent foreign institutions regarding the validity of PDs A1 and discrepancies as to the applicable legislation.

Finally, certain **strategic bodies** which might not be enforcement bodies per se, but which could play a pivotal role in the enforcement of posting rules are worth mentioning, even though there are not included in *Table a1* in *Annex III*. In Belgium, there is the Social Information and Investigation Service (SIIS). It is a body that, based on the knowledge and insights of the services involved and scientific support, develops a vision of combating social fraud and translates it into concrete strategies. Furthermore, it is this body which collects and reports inspection statistics of the different enforcement bodies in Belgium. In Lithuania, the Interinstitutional Cooperation Centre (*the Centre*) started operating on 1 February 2024. The Centre was established by the SLI together with the State Tax Inspectorate, the State Social Insurance Fund Board (SSIFB), the Financial Crimes Investigation Service (FCIS), the Police Department, and the State Border Guard Service (SBGS). Although the Centre does not specialise in a field of the enforcement of the labour and social security rules on the posting of workers in Lithuania, it is a method of cooperation solving more complicated and complex matters related to the enforcement of the labour and social security rules in general. Therefore, it can potentially be used in the field of posting of workers in the future. The Centre's activities are aimed at preventing and detecting infringements of legislation related to illegal work, undeclared work, forced labour, infringements of the procedure for the employment of foreigners, various abuses aimed at avoiding the payment of taxes and contributions related to labour relations, as well as other infringements on the part of employers in relation to employees, with a view to safeguarding the rights of labour market participants. The Centre analyses risky enterprises based on data provided by the Ministry of Social Security and Labour, the Labour Disputes Commissions, and the SBGS.

3.2 Inspectors involved in the enforcement of the posting rules

The questionnaire asked Member States to provide the number of inspectors involved in the enforcement of the posting rules as well as the total number of inspectors of the enforcement body. This way, it is possible to get an idea of the share of inspectors working on the enforcement of the posting rules. However, as can already be noted from *section 3.1*, none of the reporting Member States have enforcement bodies which focus solely on the posting of workers.

For several Member States, it was reported that all inspectors in one of the relevant enforcement bodies could potentially be involved in the enforcement of the posting rules. For these enforcement bodies, '(100%)' is therefore indicated in the last column of *Table 1*. It shows that it might have been better to ask the number of inspectors involved in inspections related to the enforcement of the posting rules (see the example for France). In the first column of *Table 1* we have therefore only reported figures regarding the number of inspectors who were actually involved in inspections regarding the enforcement of the posting rules.

First, the Member States are discussed where all inspectors from a relevant enforcement body may be involved in an inspection related to the enforcement of the posting rules.

Austria states that the Financial Police data refer to the number of employees in 'operative teams'. Employees of the operative teams carry out inspections in various fields, including inspections to ensure the compliance of firms posting to Austria with the Law Against Wage and Social Dumping. However, there is no group dedicated only to ensuring compliance with the posting rules. Similarly, BUAK staff inspects both local companies and posting companies. Hence, it is not possible to distinguish between the number of total inspectors and the number of inspectors charged with enforcing the posting rules. This means that the 406.7 FTE working at the Financial Police and the 35 FTE at BUAK could all potentially be involved in the enforcement of the posting rules.

In **Germany**, according to the Ministry of Finance (responsible for German Customs), it is not possible to provide the number of inspectors involved in control measures/inspections related to the posting of workers. The reason is the very comprehensive list of rules that are enforced. These are

defined in §2 of the *SchwarzArbG* and include not only provisions on the posting of workers but also social security obligations, obligations under the minimum wage act as well as many other issues such as residence and work permit status of foreign citizens. As there are no inspectors who are exclusively involved in control activities related to posting, it is not possible to provide any data on this issue. There is only data for the overall number of inspectors involved in issues of undeclared and unlawful work. However, seeing that it is known there are around 48 000 employees at German Customs in total, it can be calculated that 19.2% of them (9 200 custom officers/inspectors) work in the unit “Financial Control Undeclared Work”.

Spain does mention that out of the 2 122 inspectors, there is a certain specialisation of around 40 inspectors who make up the Group of Experts on European Labour Mobility to deal with the most complex cases and they are acting with the support and assistance of the EU Labour Mobility Unit of *OEITSS*. Nevertheless, this does not mean that these inspectors have an exclusive competence in this subject as labour mobility is only a part of their work. Moreover, it is reported that the Spanish Labour and Social Security Inspectorate has a serious drawback because there is currently no centralised database on the posting declarations (hopefully by the end of 2024) and it does not have a database of workers with a PD A1 posted to Spain (hopefully in 2025). Furthermore, as a rule, cases in the Spanish Labour and Social Security Inspectorate are not assigned to inspectors based on specific subjects but only based on all their competences.

Italy states that there is no personnel specialized in the posting of workers since inspection activities in this area are conducted as part of more general inspection activities. Hence, the total number of 4 768 inspectors can be working on the enforcement of the posting rules.

In **Lithuania**, data on inspectors enforcing the posting rules in the *SLI* cannot be provided, as there are no inspectorates specializing only in posting of workers. Hence, every inspector of the *SLI* (162 inspectors) might be involved in an inspection concerning posted workers.

In the **Netherlands**, the *NLA* does not track statistics on how many FTE are deployed per labour law. One inspection can encompass violations of multiple laws. Therefore, the *NLA* can only report the total number of inspectors, namely 1 753 FTE, since the enforcement of the posting rules is integrated with inspections of all other labour laws.

For **Poland**, the 100% is only the case for *ZUS*, the Social Insurance Institution. All 1 121 FTE working at *ZUS* might carry out an inspection related to the posting of workers. There is no specific group of inspectors who only conduct inspections regarding the posting of workers.

A final Member State which is not able to provide the number of inspectors solely involved in the enforcement of the posting rules is **Slovenia**. According to the *IRSD*, posting of workers is covered mostly by inspectors covering labour relations (56 inspectors). Nevertheless, inspectors are not individually assigned to deal exclusively with the posting of workers. Any available competent inspector could be assigned to a case concerning the posting of workers.

On the contrary, several Member States (BE, FR, LT, NL, PL and SK) can (partially) provide a quantification of the number of inspectors specifically involved in the enforcement of the posting rules. In **Belgium**, the total number of inspectors involved from *NSSO*, *NISSE* and *TSW/CLS* in the fight against ‘social dumping’ (only from an inbound perspective) amounted to 80.7 FTEi in 2023 (excl. the inspectors from *TWW/CBE*). Although the notion of ‘social dumping’ is broader notion than the enforcement of the posting rules, it is a good proxy for the number of inspectors involved in the enforcement of the posting rules. FTEi is that part of an FTE that is available for the core task-related activities (i.e., investigations and the administrative tasks necessary to complete these investigations successfully). Most FTEi deployed in the enforcement of the posting rules are employed at the *NSSO* (34.6 FTEi or 43%) and *TSW/CLS* (34.9 FTEi or 43%). The number of FTEi deployed by the *NISSE* in the enforcement of the posting rules is significantly lower (11.2 FTEi or 14%). Seeing that in total there were 568 FTEi employed by the three Belgian social inspection services concerned (*NSSO*, *NISSE*, and *TSW/CLS*), roughly 14% of their FTEi in 2023 were involved in the enforcement of the posting rules. Nevertheless, clear differences occur between the

social inspection services involved. For example, *TSW/CLS* deploys almost one in five of their FTEi in the enforcement of the posting rules. Finally, in the preface to the 2023-2024 action plan in the fight against social fraud of *SISS* (2023), it is stated that “*Central to this action plan is the strengthening of the inspectorates [...]. The fight against social fraud and social dumping can only be won if sufficient resources are made available. That is why we have committed ourselves to providing the necessary strengthening of the social inspection services. Specifically, 168 inspectors are being recruited to the various social inspection services.*” The question of course arises how many of these inspectors will be additionally deployed to enforce the posting rules in Belgium.

Although **France** reported that there are no inspectors specifically designated to inspect posted workers in France (as all inspectors have the necessary skills and may be called upon to carry out posting inspections), it was possible to report the number of inspectors which were involved in posting inspections. Thus, the share of 6.6% does not indicate that 6.6% of inspectors are solely involved in the enforcement of the posting rules, but it indicates that 6.6% of all inspectors have at some point in 2023 been involved in carrying out an inspection related to the posting of workers. To be complete, it should be mentioned that the data do not consider the control unit managers (one per control unit) who also carry out controls, i.e., the equivalent of around 10 to 15 FTEs.

In the **Netherlands**, the ‘*Prevention and Enforcement*’ team within the *SVB* was established in September 2018 to intensify preventive and repressive enforcement of the provisions on applicable legislation in the Coordination Regulation. Currently, this team consists of 19.2 FTEs.

In **Lithuania**, data from the Lithuanian Transport Safety Administration (*TSA*) indicate that 23 out of 47 inspectors or 48.9% are involved in enforcing the posting rules. This might not be surprising, seeing that this sector is of great importance for Lithuania regarding the posting of workers, particularly from a sending perspective.

The State Labour Inspection *PIP* in **Poland** reports that 121 labour inspectors are appointed to carry out inspections specifically on ‘*topic T16 - posting of workers in the framework of the provision of services*’. However, *PIP* clarifies that in the course of their activities, labour inspectors appointed to control compliance with the provisions of the Act of 10 June 2016 on the posting of workers in the framework of the provision of services, often also investigate other issues not related to the posting of workers, but which are included in other control topics, such as the legality of employment of foreigners. In total at *PIP*, 2 678 persons are employed of which 1 517 inspectors who are entitled to carry out labour inspections. Comparing the number of 121 inspectors to the total of 1 517 leads to a share of 8.0% of labour inspectors involved in the enforcement of the posting rules.

Finally, in **Slovakia**, the total number of inspectors who have a specialisation in posting of workers was 21, out of the total number of 257 inspectors. In this total of 257 inspectors, 32 are dealing with the issue of social legislation in transport (by performing road inspections) as well as the issue of posting employees in the field of road transport - Directive 2020/1057. Notwithstanding, these inspectors are not the only persons authorised to conduct labour inspections regarding the surveillance of posting rules. This authorization is given to every labour inspector, meaning that providing a precise number of labour inspectors who conducted labour inspections in relation to the enforcement of the posting rules is not possible. However, it is possible to compare the 21 inspectors specialised in the posting of workers with the total of 257 inspectors. This shows that 8.2% of inspectors of the Slovak Labour Inspectorates are specialised in the enforcement of the posting rules. Additionally, from a sending perspective, the total number of officers working on PD A1 matters at both *SLA* headquarters and branch offices is 161. Most branch officers handling PD A1-related tasks have broader responsibilities beyond issuing these certificates.

Table 1. Number of inspectors focussed on the enforcement of the posting rules, 2023⁸⁰

	Number of inspectors specifically focused on the enforcement of the posting rules (A)	Total number of inspectors of the enforcement body (B)	Share in total (A/B)
AT		Financial police: 406.7 FTE BUAK: 35 FTE	(100%)
BE***	Total: 80.7 FTEi, of which NSSO: 34.6 FTEi NISSE: 11.2 FTEi TSW/CLS: 34.9 FTEi	Total: 568 FTEi, of which NSSO: 305.8 FTEi NISSE: 82.5 FTEi TSW/CLS: 179.7 FTEi	Total: 14.2% NSSO: 11.3% NISSE: 13.6% TSW/CLS: 19.4%
DE		Financial Control Undeclared Work (FKS): 9 200	
ES****		OEITTS: 2 122 of which <ul style="list-style-type: none"> • 887 labour and social security inspectors • 968 specialized in employment policies, enforcement of TCN workers rules and social security legislation (including the control of PDs A1) • 267 specialized on OSH (including the OSH conditions of posted workers) 	(100%)
FR	DGT: 103.5 FTE	DGT: 1 575 FTE	6.6%
IT		4 768 INL inspectors of which <ul style="list-style-type: none"> • 3 222 INL civil inspectors, of which 877 technicians <ul style="list-style-type: none"> • 828 INPS inspectors • 200 INAIL inspectors • 518 inspectors of the Carabinieri Command for the Protection of Labour 	(100%)
LT	TSA: 23	SLI: 162 TSA: 47	TSA: 48.9%
NL	SVB (Prevention and Enforcement Team): 19.2 FTE	NLA: 1 753 FTE	
PL	PIP: 121	PIP: 1 517 ZUS: 1 121 FTE	PIP: 8.0%ZUS: (100%)
SI		IRSD: 97 of which <ul style="list-style-type: none"> • 56 for labour relations <ul style="list-style-type: none"> • 35 for OSH • 6 for social affairs 	(100%)
SK*****	Labour Inspectorate: 21 specialised in posting of workers	Labour Inspectorate: 257 of which 32 who deal with the issue of social legislation in transport (conducting roadside checks as well as inspections related to posting of drivers)	8.2%

* Answers provided to the question “Please provide, by enforcement body, statistics on the number of inspectors involved (in full time equivalents (FTE)) in the enforcement of the posting rules in your country.”

** When a cell is empty, it means that no response could be provided by the Member States in the questionnaire.

*** FTEi is that part of a FTE that is available for the core task-related activities (i.e., investigations and the administrative tasks necessary to complete these investigations successfully).

**** ES: However, around 40 inspectors within the Group of Experts on European Labour Mobility deal with the most complex cases.

***** SK: Additionally, from a sending perspective, the total number of officers working on PD A1 matters at both SIA headquarters and branch offices is 161. Most branch officers handling PD A1-related tasks have broader responsibilities beyond issuing these certificates.

Source Questionnaires filled out by national experts

⁸⁰ In Luxembourg, in 2023, 18 inspectors were specialised in posting compared to a total of 99 inspectors in the field in total, meaning that the share amounts to 18.2% of inspectors involved in the posting of workers. The number of inspectors involved in the posting of workers remained stable from 2020 to 2022 (11 inspectors) while the total number of inspectors in the field increased (61 in 2020, 69 in 2021, 86 in 2022, and 99 in 2023). As a result, the share of inspectors involved in the enforcement of the posting rules was on the decline in previous years (18.0% in 2020, 15.9% in 2021, and 12.8% in 2022). However, by increasing the number of inspectors specialised in posting from 11 to 18, the share has grown again to 18.2% (Inspection du travail et des mines, 2024).

Although it might now be tempting to state that in Belgium the share of inspectors involved in the enforcement of the posting rules (14.2%) is higher than in Poland (8.0%) and in France (6.6%), and it is particularly high in the Lithuanian transport sector (48.9%), this does not seem sensible. As could be seen in *Table a1 of Annex III*, the definition of the notion of ‘inspector’ differs markedly between Member States. For example, in Belgium the definition is decided by the different enforcement bodies themselves and might also include administrative staff. Hence, a comparison between and within Member States remains difficult.

Therefore, it might be better to look at Member States individually and monitor their evolution over time if possible. In Belgium, the number of inspectors dealing with the enforcement of the posting rules has certainly increased (64 FTEi in 2020, 69 FTEi in 2021, 79.7 FTEi in 2022, and 80.7 FTEi in 2023). However, this increase is mainly driven by the inclusion of the FTEi of the ‘Transport Team’ of the Directorate-General for Supervision of Social Laws in the reported data since 2022. This also shows that some caution is needed when looking the evolution of the number of inspectors involved in the enforcement of the posting rules. In the French questionnaire, an evolution was provided as well. The number of inspectors in FTE involved in posting inspections fell from 112.7 in 2020 to 99.3 in 2022 before rising slightly towards 103.5 in 2023. Similarly, the total number of inspectors followed a downward trend until 2022 before increasing slightly in 2023. The proportion of inspectors involved fluctuated over the four years, reaching its lowest level in 2022 (6.4%) before rising again in 2023 (6.6%). This could indicate variations in the need for intervention.

Finally, it is interesting to have a look at the number of incoming posted persons per inspector involved in the enforcement of the posting rules. This exercise has been done for BE, FR and NL (*Table 2*).⁸¹ In 2022, 260 638 posted persons were registered in the prior declaration tool of Belgium (i.e., Limosa). The figure for 2022 has been taken into account as in 2023 postings in the transport sector are no longer visible in the Limosa data. At that time, 79.7 FTEi had been deployed by the *NSSO*, *NISSE*, and *TSW/CLS* in the enforcement of the posting rules. This means that there is one inspector for 3 270 reported incoming posted persons in Belgium. For France, there is an average of one inspector for 2 264 incoming posted workers. Finally, in the Netherlands, one inspector of the *SVB* covers an average of 5 015 incoming posted persons. Hence, the benchmark of one social inspector per 10 000 workers, as defined by the ILO, is reached by all three Member States.

Table 2. Number of incoming posted persons per inspector involved in the enforcement of the posting rules

Inbound posting			
Member State	Number of inspectors	Number of incoming persons registered in the prior declaration tool (2022 or 2023)	Average number of incoming posted persons per inspector
Belgium	79.7	260 638	3 270
France	103.5	234 363	2 264
The Netherlands (only SVB)	19.2	96 290	5 015

Source Questionnaires filled out by national experts; De Wispelaere et al., 2024

81 For Luxembourg, there is an average of 1 inspector for 3699 incoming posted workers (18 inspectors and 66.588 incoming posted persons).

3.3 Inspections related to the enforcement of the posting rules

Table 3 reports data on the number of inspections carried out by the relevant enforcement bodies regarding the enforcement of the posting rules.

In **Austria**, the Financial Police inspected 1 402 companies providing services in Austria. During those inspections, 3 443 posted workers were checked. In total, the Financial Police conducted 26 850 inspections during which 51 356 employees were checked. The inspections cover both employment related inspections (fighting undeclared work, enforcing posting rules) and inspections related to the organisation's mandate to prevent illegal gambling. Hence, it can be calculated that out of all the employees checked by the Financial Police, 6.7% concern posted workers. Furthermore, *BUAK* inspected 2 250 construction companies providing services in Austria, and during those inspections, 8 309 posted workers were checked. In total, *BUAK* reports 11 881 inspections of construction sites concerning 14 609 domestic companies and 2 250 posting companies. Seeing that the sum of the number of companies inspected (16 859) does not equal the total number of inspections (11 881), it appears that at one construction site, several companies can be inspected. When comparing the number of posting companies inspected (2 250) to the total number of companies inspected by *BUAK* (16 859), the share amounts to 13.3%.

In 2023, 7 759 investigations were conducted by the competent **Belgian** social inspection services (*NSSO*, *NISSE* and *TSW/CLS*) regarding the enforcement of the posting rules. In addition, 248 investigations focused specifically on *Brazilian filières*⁸², and 672 investigations on the posting of TCNs. All these investigations focused only on inbound posting. The Directorate General for Supervision of Social Laws (*TSW/CLS*) carried out 6 out of 10 investigations related to the enforcement of the posting rules. The *NSSO* accounted for about 3 in 10 investigations and, finally, the *NISSE* for less than 1 in 10 investigations. In 2023, a total of 60 311 investigations were conducted by *NSSO*, *NISSE*, and *TSW/CLS*. This means that around 13% of all investigations were aimed at combating infringements to the posting rules, although once again strong differences occur between the Belgian social inspection services involved. For instance, more than one in four of the investigations carried out by *TSW/CLS* were aimed at the enforcement of the posting rules (26.5%). For the *NSSO* and *NISSE*, it is 'only' 6.6% and 12.6% of their investigations respectively.

In **Germany**, there are no data available for the inspections carried out by the German Customs Administrations only relating to the enforcement of the posting rules. However, in the domain of "Undeclared work and illegal employment", the total number of employers inspected can be indicated. In 2023 it concerned 42 631 inspected employers, the lowest number in the last five years, with a peak reached in 2019 with 54 733 inspected employers. Moreover, some data on inspections in the road freight transport sector based on driving personnel law (infringements detected during roadside checks in accordance with Regulation (EC) No. 561/2006, Regulation (EU) No. 165/2014 and the European Agreement concerning the work of crews of vehicles engaged in international road transport (*AETR*)) are available as well, provided by the *BALM*, the Federal Office for Logistics and Mobility. Although no information is available on whether the driver is posted or not (seeing that all drivers are inspected), a distinction is made between 'resident' and 'non-resident'. The *BALM* reports that 107 190 vehicles in freight traffic were checked, of which 79 001 were non-residents (73.7%). Furthermore, 778 vehicles in passenger traffic were checked of which 294 were non-residents (37.8%).

Spain reported that 892 inspection actions of the *OEITS* related to the enforcement of the posting rules, while the total number of inspection actions of *OEITSS* amounted to 1 188 080 inspections (2023 figures). However, it would be inaccurate and misleading to count all of these 1.2 million inspections in the same way as there are some that require little personal effort in terms of time and

⁸² The term '*Brazilian filière*' is used to depict professional money laundering networks operating on an international scale. Initially, these networks focused mainly on social fraud in the Brazilian-Portuguese milieu, hence their name. In the meantime, the networks have evolved and although the front men – managers of the companies – often still have Portuguese or Brazilian nationality, the activities have long since gone beyond money laundering from undeclared work in the construction sector.

dedication and others that require a great deal of effort. Many of the inspection actions are not carried out personally by the inspectors but through the mass mailing of letters or the automated processing of data and information. Furthermore, it is possible that a significant number of inspections have not been included in the figure of 892 inspections related to the enforcement of the posting rules. For example, actions started in 2022 and completed in 2023 with results in the recovery of social security contributions are accounted for in the records in 2022. The inspection actions that have been carried out in respect of Spanish workers who have been posted to other countries where there is no declaration of posting to Spanish authorities are currently difficult to locate in the information system. And finally, actions on OSH carried out by specialised deputy inspectors without the competence to examine the declaration of posting are not counted. The information obtained by dividing the number of activities dedicated to labour mobility by the total number of *OETISS* actions by would therefore lead to inaccurate results. Hence, the last column of *Table 3* indicating the share remains empty.

The number of inspections of *DGT* regarding the enforcement of the posting rules in **France** amounted to 14 156 in 2022, while the total number of inspections equalled 231 386 in 2022. However, a share is not provided in *Table 3* for several reasons. The data regarding posting rules correspond to the activity recorded by inspectors and may differ from the actual activity. These data are available at regional level, whereas the total number of inspections is provided by sector at the national level. As the data neither have exactly the same definition nor the same source, any comparison of the two would not reflect the exact situation of the share of inspections concerning posted workers in the total volume of inspections in France. Nevertheless, from the previous *POSTING.STAT* project, it is known that the share of inspections focused on the posting rules amounted to 8% in 2019 and 5% in 2020 (De Wispelaere et al., 2022).⁸³ In addition, figures for 2021 show that *DGT* carried out 255 647 inspections of which 16 083 inspections focused on posting or 6.3% of the total number of inspections carried out.⁸⁴ Furthermore, the 14 156 inspections regarding the enforcement of the posting rules can be broken down by the degree of investigation undertaken by *DGT*. The majority concern controls (8 756 or 61.9%), as well as an examination of documents (4 695 or 33.2%). An investigation (586 or 4.1%) or a meeting (119 or 0.8%) are less common.

A total of 111 281 inspections were reported by the *INL* in **Italy** consisting of 97 647 inspections and 13 634 checks and investigations. Most inspections took place in the area of the workplace (83.3%), as opposed to social insurance (8.5%) and social security (8.3%). Unfortunately, data on posting inspections specifically are not available.

In **Lithuania**, the *SLI* did not carry out special inspections related to the enforcement of the posting rules. Nevertheless, 30 specialised inspections were foreseen in 2024, and in 2022 47 enterprises/economic entities specialised inspections were carried out. In total, the *SLI* carried out 10 639 inspections in 2023. In addition, the *SLI* received 165 requests from 12 Member States in 2023 concerning posted workers, to which it checked the information in response, but it is not known whether the *SLI* carried out inspections in response to these requests.⁸⁵ Furthermore, in the Lithuanian transport sector specifically, the *TSA* carried out 6 937 inspections in total and inspected 2 784 foreign hauliers. Hence, a proxy for the importance of inspections relating to the posting rules amounts to 40.1%. This share is lower than the proxy of the share of inspectors dealing with the enforcement of the posting rules at the *TSA* (48.9%, see *Table 1* in *section 3.2*).

The *NLA* cannot provide recent statistics on the number of inspections related to the enforcement of the posting rules in **the Netherlands**. As already explained in *section 3.2*, the enforcement of the posting rules is aimed at protecting the core labour conditions for posted workers, such as the minimum wage, adequate rest periods, safe working conditions and a minimum number of holiday

83 See also the *POSTING.STAT* country report for France published in 2022:

https://hiva.kuleuven.be/nl/nieuws/docs/ZKD9978_POSTING_STAT_France_Posted_workers_from_and_to_France_facts_and_figures

84 *DGT (2022). Inspection du travail : Bilan 2021 et premières tendances 2022. Perspectives 2023.*

85 The 165 requests came from the following Member States: Austria (10), Belgium (22), Denmark (10), Estonia (58), Latvia (3), Poland (11), the Netherlands (2), Norway (23), France (4), Finland (3), Sweden (26), and Germany (3).

allowances. This enforcement is integrated with inspections of all other labour laws. However, Notifications and Prevention of Unfair Work (*Meldingen en preventie oneerlijk werk*, MPO) at the *NLA* focusses on the risks of underpayment, working hours and illegal employment, including those related to the Posting of Workers Directive, and some data were available from this body. Indeed, from the previous POSTING.STAT project, it is known that in 2020, 107 inspections regarding the Posting of Workers Directive were carried out by the *NLA* in the frame of the MPO-programme (De Wispelaere et al., 2022).⁸⁶ The Tax and Customs Administration cannot provide statistics on the number of inspections related to the enforcement of fiscal rules and laws for posted workers and posting companies in the Netherlands, and the *IND* performs no inspections related to the enforcement of the posting rules in the Netherlands. The latter only uses data from the notification portal to verify certain information provided in applications for residence permits for posted TCNs who want to stay longer than three months. The only enforcement body which could provide some recent data is the *SVB*, which conducted 70 inspections (*handhavings-/werkgeversonderzoeken*) in 2019 (covering 5 589 posted workers), 35 inspections in 2020, 55 inspections in 2021, 42 inspections in 2022 and finally 45 inspections in 2023⁸⁷.

The *ZUS* branch in Siedlce in **Poland**, which is a unit designated for cases where the competent public authorities from other Member States request for withdrawal of a PD A1 or have doubts with regard to the determination of the applicable legislation, carried out 150 investigations in 2023. In total, the *ZUS* carried out 25 973 inspections in 2023. Out of the more than 61 000 inspections carried out by *PIP*, 362 concerned inspections involving the enforcement of the posting rules, which represents 0.6% of total inspections. Out of these 362 inspections, 268 concerned the posting of workers from Poland to other Member States and 94 the posting of workers to Poland from other Member States. *From a sending perspective*, the inspections mostly concerned Polish enterprises active in the construction sector (61% of controls), administrative services (including temporary work) (12%), industrial processing (9%), and transportation and storage (9%). These inspections covered around 2 200 persons posted from Poland, mainly posted to Belgium (1 155 persons), Germany (399 persons), and the Netherlands (314 persons). In more than half of these 268 inspections (namely 137 inspections or 51%) and even 68% of all persons controlled, it concerns foreigners sent by Polish entrepreneurs to work abroad; and a majority of these non-Polish posted persons are TCNs, mainly from Ukraine, Belarus and Georgia, namely two thirds of the foreigners inspected. *From a receiving perspective*, the 94 inspections covered 494 posted workers including 390 non-Polish persons, mostly TCNs from Ukraine and Turkey. These inspections mainly concerned activities in the construction sector (31%), industrial processing (27%), and administrative services (including temporary work) (9%).

In **Slovenia**, the *IRSD* does not keep statistical data on the number of inspections specifically related to the posting of workers. In total, 10 101 inspections were carried out of which 4 475 were OSH inspections (44.3%), 5 500 labour relation inspections (54.5%), and 126 social affairs inspections (1.2%). This total number of inspections was lower in 2023 compared to previous years (17 334 in 2020 and 15 698 in 2022). This has to do with the challenges concerning the lack of human resources.

The total number of inspections reported by the Labour Inspectorate in **Slovakia** is 16 069.

⁸⁶ See also the POSTING.STAT country report for the Netherlands published in 2022: <https://hiva.kuleuven.be/nl/nieuws/docs/posted-workers-to-the-netherlands.pdf>

⁸⁷ See https://www.eerstekamer.nl/bijlage/20240515/svb_jaarverslag_2023_117p_2/document3/f=/vmd9ev0l4trn.pdf (p 14)

Table 3. Number of inspections in general and focussing on the enforcement of the posting rules, 2023^{88,89}

	Number of inspections related to the enforcement of the posting rules (A)	Total number of inspections of the enforcement body (B)	Share in total (A/B)
AT	Financial Police: 1 402 companies providing services in Austria involving 3 443 posted workers BUAK: 2 250 companies providing services in the Austrian construction sector, involving 8 309 posted workers	Financial Police: 26 850 inspections during which 51 356 employees were checked BUAK: 11 881 inspections concerning 14 609 domestic companies and 2 250 posting companies active in the construction sector	Financial Police: 6.7% of inspected employees BUAK: 13.3% of inspected companies
BE	Total: 7 759, of which: NSSO: 2 481 NISSE: 653 TSW/CLS: 4 625	110 140, of which NSSO: 37 651 NISSE: 5 195 TSW/CLS: 17 465	Total: 12.9% NSSO: 6.6% NISSE: 12.6% TSW/CLS: 26.5%
DE		FKS: 42 631 inspected employers in the domain of "Undeclared work and illegal employment"	
ES	OEITSS: 892	OEITSS: 1 188 080	
FR	DGT: 14 156 (2022)	DGT: 231 386 (2022)	
IT		INL: 111 281	
LT	TSA: 2 784 foreign hauliers inspected	SLI: 10 639 TSA: 6 937	TSA: 40.1%
NL	SVB: 45 inspections (2023) NLA – MPO: 107 inspections regarding the Posting of Workers Directive (2020)		
PL	PIP: 362 of which 268 on postings from Poland and 94 on postings to Poland The ZUS branch in Siedlce carried out 150 investigations	PIP: more than 61 000 ZUS: 25 973	PIP: 0.6%
SI		IRSD: 10 101	
SK		Labour Inspectorate: 16 069	

* Answers provided to the question "Please provide, by enforcement body, statistics on the number of inspections related to the enforcement of the posting rules in your country."

** When a cell is empty, it means that no response could be provided by the Member States in the questionnaire.

Source Questionnaires filled out by national experts

⁸⁸ Luxembourg reports 6 711 inspections related to posting rules in 2022 and 13 029 in 2023. Seeing that the total number of inspections amounts to 10 072 in 2022 and 17 328 in 2023, the share of inspections involving the enforcement of the posting rules in the total number of inspections amounted to 66.6% in 2022 and 75.2% in 2023. This is higher than 18.2% of inspectors which are involved in the enforcement of the posting rules in 2023 (Inspection du travail et des mines, 2024).

⁸⁹ In Switzerland, the posting inspections concerned 37 413 companies in 2022 and 36 587 companies in 2023, meaning that the objective of 35 000 company inspections is achieved. The number of persons inspected concerned 165 845 in 2022 and 158 848 in 2023. Out of the 36 587 companies inspected in 2023, 9 310 were posting companies, 22 543 were Swiss employers, and 4 734 were self-employed. Furthermore, in 2023, 7% of Swiss companies and 26% of all posted workers were subject to inspections relating to compliance with the working and wage conditions in force in Switzerland. In addition, the professional status of 31% of independent service providers from the EU/EFTA working in Switzerland was checked. This means that the objective of inspecting at least 3% of Swiss employers (and 5% in high-risk sectors) was reached, while the objective of inspecting between 30% and 50% of posted workers and self-employed was narrowly missed for posted workers but reached for posted self-employed (SECO – Direction du travail, 2024).

3.3.1 Checks on compliance with the posting conditions before issuing a Portable Document A1

The principle of ‘sincere cooperation’ (as laid down in Article 4(3) of the Treaty on European Union and specified in Article 76 of Regulation 883/2004), requires that institutions conduct a proper assessment of the facts relevant for the determination of the legislation applicable prior to issuing the PD A1.⁹⁰ Moreover, the extent to which the competent institutions closely check the posting conditions before issuing a PD A1 may have a strong impact on the number of questions received regarding the validity of a PD A1 issued according to Article 12 of Regulation 883/2004.

The assessment to be made of the ‘posting conditions’ before issuing a PD A1 can also be considered an ‘inspection’.⁹¹ Indeed, it is not because a PD A1 is requested that one will effectively be issued by the competent institution. This reality is nicely reflected by the data available for Slovenia (see *Box II*). In 2023, roughly 7% of the applications for a PD A1 under Article 12 BR were refused, mainly tax-related (40% of all rejections).⁹²

Box II – 2023 figures from the competent institution in Slovenia (i.e., the Health Insurance Institute) regarding the issuance of a PD A1 under Article 12 BR:⁹³

- Number of applications for a PD A1 under Art. 12 BR: 108 018
- Number of PDs A1 issued: 98 469 (91.2% of the applications)
- Number of requests for additional information/documentation: 1 551 (1.4% of the applications)
- Rejected: 7 389 (6.8% of the applications)
- Discarded: 442 (0.4% of the applications)

The main reasons for a PD A1 not being issued (or the issuing is being delayed) are as follows:⁹⁴

- Tax related (outstanding tax liabilities, failure to submit tax return forms, no or blocked bank account): 3 274 applications (40.3% of all rejections)
- The employer does not normally provide services in Slovenia (e.g., the percentage of workers posted abroad by a company is too high given the total number of employees, workers were not insured in Slovenia for at least 30 days prior to the posting): 2 372 applications (29.2% of all rejections)
- Documentation missing or incomplete (employment contract, business contract): 1 543 applications (19% of all rejections)
- Procedural (e.g., PD A1 already issued for that period, the applicant does not submit additional documents on time): 644 applications (7.9% of all rejections)
- Labour law-related (e.g., the employer being fined for violations, no single permit issued for TCNs etc.): 236 applications (2.9 % of all rejections)
- Other: 59 applications (0.7% of all rejections)

⁹⁰ Moreover, Recommendation No A1 of 18 October 2017 of the Administrative Commission has given more guidance on this process by stating that it is recommended that, prior to issuing a PD A1, institutions assess all the relevant facts, whether by means of data contained in official sources, or by requesting the applicant to provide the necessary information. (Administrative Commission (2017), ‘Recommendation No A1 of 18 October 2017 concerning the issuance of the attestation referred to in Article 19(2) of Regulation (EC) No 987/2009’, available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H0529\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H0529(01))).

⁹¹ Although such inspections are not included in Table 2.

⁹² The share of rejected applications was 11.3% in 2018 and 9.4% in 2020 (see Table 4 of the POSTING.STAT country report for Slovenia published in 2022: https://hiva.kuleuven.be/nl/nieuws/docs/ZKD9978_POSTING_STAT_Slovenia_Posted_workers_from_Slovenia_facts_and_figures).

⁹³ Since the beginning of 2024, all applications for a PD A1 under Article 12 and Article 13 need to be submitted electronically via a platform called SPOT. <https://spot.gov.si/assets/SPOT/navodila/Navodila-za-izpolnjevanje-vloge-za-pridobitev-potrdil-A1.pdf>

⁹⁴ One application can be rejected for several reasons, hence the sum of the reasons for rejection does not correspond with the number of total rejections. For figures of 2018, 2019 and 2020, see Table 10 of the POSTING.STAT country report for Slovenia published in 2022.

3.3.2 Focus on the Internal Market Information System

The Internal Market Information System (IMI) is an online tool that facilitates the exchange of information between public authorities involved in the practical implementation of EU law. One of the aims of IMI is to support administrative cooperation and mutual assistance between the competent authorities of the Member States concerning the application and enforcement of the Posting of Workers Directive (De Wispelaere et al., 2022). This tool can be used by labour inspectorates to request and exchange information. Seeing that some Member States mention information about IMI in their reply to the questionnaire, it is worth highlighting this system in this subsection.

Regarding information from IMI on the posting of workers specifically, general data are only available up until Q3 in 2020.^{95,96} In the first three quarters of 2020, there were on average 1 356 posting information exchanges per quarter, mostly concerning information requests, with requests to send documents and notifications of a decision completing the podium. Austria (2 394 exchanges in Q1 -Q3 of 2020) and Belgium (840) are the main sending Member States of posting information exchanges, while Slovenia (787), Poland (487), and Slovakia (441) are the main recipient Member States of posting information exchanges.

In the questionnaire, **Poland** mentioned that regarding the posting module in IMI,⁹⁷ 53 applications (single document) for the enforcement of a penalty or fine were sent in 2023. In turn, applications for notification of the decision to impose an administrative fine or fine were sent to Poland from Austria (39 applications), Romania (3), Slovakia (2) and Italy (1). Furthermore, applications for the enforcement of administrative penalties and fines imposed by foreign institutions on Polish entities posting employees to work in their territory were received by the *PIP* from Austria (47 applications), Luxembourg (5), and Belgium (1). It is also noted that in 2023, inspection proceedings and non-inspection activities of labour inspectors regarding the posting of workers from the territory of Poland were conducted primarily as a result of applications submitted to the *PIP* as part of the exchange of information via the IMI system (80% of cases). In the remaining 20% of the cases, the basis for undertaking control and non-control activities were complaints of posted workers (14% of cases), notifications from other authorities, or the own findings of labour inspectors who had reasonable suspicions that Polish enterprises did not comply with the provisions of the law of the Member State of posting.

A similar finding is mentioned by **Slovakia**, where based on the data exchange within IMI around 154 inspections have been conducted by the Labour inspectorates on a basis of an information request received by the National labour Inspectorate of the Slovak Republic. The exact number of labour inspections related to posting cannot be provided, because the information system does not pose a specific denominator related to a labour inspection regarding posting. These inspections are listed as labour law relations inspection (so the number also includes labour inspections without any cross-border service provision).

Finally, in **Slovenia**, the *IRSD* notes that efficiently responding to requests submitted via IMI is only possible if more inspectors are hired. In 2023, they received 397 requests for information from the EU Member States: 81 for additional information/documentation, 6 in the road transport sector, and 310 for sending documents. On the contrary, the *IRSD* sent out 13 requests.

⁹⁵ See https://ec.europa.eu/internal_market/imi-net/statistics/2020/10/posting-of-workers/index_en.htm

⁹⁶ Luxembourg does report that in 2023 they sent 63 (posting information exchanges) requests through IMI of which 18 to Portugal and 10 to Germany, and they received 10 requests of which 6 from the Netherlands and 4 from Belgium (Inspection du travail et des mines, 2024).

⁹⁷ In 2023, *PIP* exchanged information with foreign competent authorities in the area of the posting of workers in 597 cases. In 568 cases, the foreign institutions (mainly from Belgium and Austria) were the initiating party (*PIP*, 2024: 191).

3.4 Infringements to the posting rules

As a result of inspections carried out, infringements can be found. Consequently, when comparing the number of infringements to the number of inspections, it is possible to calculate the ‘infringement rate’, which gives an idea of how well the posting rules are followed. Nevertheless, the warning made in the introduction of this thematic paper should be repeated here once more. Seeing that inspections are often based on a risk assessment, and they mostly focus on specific ‘risk sectors’, the infringement rate can be quite high. This gives a distorted view of reality and the actual share of infringements in total. It could give the impression that many posting activities are violating the posting rules, while it might actually show that the inspections carried out are effective and target harmful posting activities.

In this section, both the number and the type of infringements found are discussed. Regarding the latter, reference is made to *Annex III*. A non-exhaustive overview of types of infringements related to intra-EU posting is provided in *Table a7*. Infringements can mainly be broken down between labour law aspects and social security law aspects. Regarding the application of the Posting of Workers Directive, infringements such as bogus self-employment and failure to respect the terms and conditions of employment may occur (sometimes even leading to labour exploitation)⁹⁸. Infringements related to the application of the Posting of Workers Directive may also include not respecting ‘administrative obligations’ such as not reporting the activities in the prior declaration tools of the receiving Member State. Regarding the application of the Coordination Regulations (i.e., Regulations 883/2004 and 987/2009), infringements such as the non-compliance with the posting conditions as well as paying the correct level of social security contributions are the main concerns. On top of these two main areas, infringements can of course also take place regarding other branches of law, such as migration law, OSH legislation, or even criminal activities. The replies of the Member States on the types of infringements found are provided in *Table a8* in *Annex III*.

In **Austria**, the Financial Police reports that 233 posted workers are suspected of being underpaid (*Table 4*). This means that out of the 3 443 posted workers controlled, 6.8% are suspected of being underpaid. It is important to stress that it concerns *suspected* underpayment; it would be wrong to state that 6.8% of posted workers are being underpaid in Austria. Furthermore, the Financial Police filed 399 complaints for not providing wage documentation. In addition, *BUAK* reports that 25.5% of the posting companies are suspected of underpaying workers,⁹⁹ and they filed 259 complaints against companies related to underpayment of 689 posted workers. According to the Financial Police and the *LSDB* Statistics (see *Table a8* in *Annex III*), the main types of infringements are underpayment, failing to provide the necessary notification documents (for instance the PD A1), and failing to present wage documentation. However, it should be noted that the complaints filed which are mentioned are only ‘filed’; this means the infringement has not yet been proven by a court. Furthermore, enforcement bodies point out that some companies deliberately do not provide wage documentation because the penalty for not providing the requested documents is lower than for underpaying workers.

Out of the 7 759 investigations conducted by the **Belgian** social inspection services, 3 429 were positive investigations in which an infringement was found to the posting rules, or an infringement rate of 44.2%. For the *NSSO* the infringement rate (63.3%) is significantly higher compared to the other two Belgian social inspection services. The difference of these ratios between the Belgian social inspection services can be explained by the fact that they organise their investigations differently. For instance, the *NSSO* will only start an investigation when clear elements of infringements are visible. Therefore, their infringement rate is particularly high. For the two specific topics of *Brazilian filières* (77.8%) and TCNs (59.1%) the infringement rates are even higher than in general (44.2%).

The most common infringements found by the *NSSO* concern the electronic attendance registration, Regulation (EC) 883/2004 and making a prior declaration in LIMOSA (see *Table a8* in

⁹⁸ See Myria, 2024.

⁹⁹ Between 2011 and 2020, the proportion of suspected cases for posting companies (36%) was much higher than the proportion of suspected cases for domestic companies (about 1%) (Riesenfelder & Reichert, 2021).

Annex III). For *TSW/CLS* it concerns infringements regarding the payment of wages and the DIMONA-declaration (i.e., the electronic message by which the employer declares every entry and exit of an employee to the *NSSO*). Finally, for the *NISSE*, infringements are found regarding unlawful posting/simultaneous employment and the prior declaration in LIMOSA.

In **Germany**, it is unfortunately not possible to gather specific data on infringements for 2023 related to the posting rules from the German Customs Authority. However, data published for 2022 shows that a total of 51,107 offense proceedings was initiated by *FKS* - Financial Control of Undeclared Work. In 2022, 2 961 administrative offence proceedings were initiated regarding the *AEntG*. A more detailed breakdown in *Table a9* in *Annex III* shows that the majority concern the minimum wage or other working conditions (42.7%) and the obligation to keep records and the readiness of documents (40.4%). Both these types of proceedings occurred primarily in the main or ancillary building industry. No criminal investigation proceedings were reported in relation to the *AEntG*. *BALM*, the Federal Office for Logistics and Mobility, does provide statistics on overall violations regarding driving times, breaks, rest periods, work schedules and installed control devices (tachographs) broken down by type of transport and nationality. Nevertheless, as mentioned in *section 3.3*, a distinction between a posted driver and a non-posted driver cannot be made, seeing that all drivers are being inspected. In freight traffic, 18 461 controlled vehicles were found to have infringements of which 12 834 were non-resident. The infringement rate equals 17.2% in total and 16.2% for non-resident vehicles. Regarding passenger traffic, 205 controlled vehicles were objected of which 75 were non-resident, leading to an infringement rate of 26.4% in total and 25.6% for non-resident vehicles. The type of infringements found mainly concern Regulation (EC) 3821/85 and the European Agreement concerning the work of crews of vehicles engaged in international road transport (non/improper use of record sheets/driver card, no control unit, improper operation of the recording equipment, record sheets/driver card not carried or not presented/improper use), followed by infringements concerning Regulation (EC) 561/2006 and the European Agreement concerning the work of crews of vehicles engaged in international road transport (mainly rest periods, followed by driving time and breaks).

Spain reports 54 infringements found in the 892 inspections, giving an infringement rate of 6.1%. Out of these 54 infringements, 29 concerned posting declarations, 15 labour conditions, and 10 undeclared work (see *Table a8* in *Annex III*). However, as was mentioned in *section 3.3*, the number of inspections is possibly a significant underestimation.

As could be seen in *Table 3* in *section 3.3*, **France** reported 14 156 inspections regarding the posting rules in 2022. Although the outcome of these inspections (infringement or not) is not known.

The *INL* mentioned that 324 workers received protection for infringements related to posting in **Italy**. The majority of these workers were active in the services sector (50.3%) and the construction sector (39.8%), while a minority is active in agriculture (1.9%) and industry (0.9%). The *INL* could also provide a breakdown by region, from which it became clear that 92.3% of the infringements related to the posting of workers were recorded in the Northern regions (299 out of 324 workers).

Seeing that in 2023, no inspections related to the posting of workers were carried out in **Lithuania** (see *section 3.3*), data for 2022 are provided. Out of the 47 companies inspected by *SLI*, 10 were found to have violated the posting rules, meaning that the infringement rate was 21.3%. Most of these 10 infringements, namely seven, concerned companies which did not declare the posted workers or declared them too late, for instance a failure to submit work permit notifications for foreigners (see *Table a8* in *Annex III*). Regarding the *TSA*, out of the 2 784 inspections carried out in 2023, infringements were found in seven cases, or an infringement rate of 0.3%. All these seven cases concern a breach in the obligation to have a declaration.

In 2020, the *NLA* conducted 107 inspections regarding the Posting of Workers Directive in **the Netherlands**, of which 25% or 27 were found to have an infringement. And in 2019, the *SVB* conducted 70 inspections (covering 5 589 posted workers), where in 19 cases (covering 802 posted

workers) an infringement related to fraud was detected, or 27.1% of the cases or 14.3% of the posted workers.

In **Poland**, ZUS reported that irregularities with regard to the enforcement of the rules on the posting of workers were identified in 123 inspections, equalling 0.5% of total inspections. Regarding PIP, controls in which the genuineness of the posting of workers from Poland was examined, showed that a total of 457 persons, including 310 foreigners, did not meet the conditions for recognition as a posted worker from Poland. Compared to the total of around 2 200 persons posted from Poland involved in the inspections, this leads to a share of 20.8%. This indicates that around one in five posted persons from Poland who were controlled did not meet the posting conditions. The numbers show a clear tendency of a growth in non-genuine outgoing ‘postings’ (the issue concerns to a very large extent foreigners; presumably mostly TCNs). When it comes to the *incoming postings* 75% of the inspections of foreign employers which were carried out reveals an infringement of the legal provisions. An often-encountered issue is the bogus posting of TCNs by Polish entrepreneurs to other EU Member States, as well as letterbox companies (see *Table a8 in Annex III*). Moreover, not submitting the required documentation, and infringements regarding OSH, wages and working time are some of the other infringements found by PIP.

In total, **Slovenia** reports 16 violations regarding the Employment, Self-Employment and Work of Foreigners Act, 68 violations regarding the Transnational Provision of Services Act, and 72 violations regarding the Employment Relations Act. It is noted that the number of infringements of rules concerning the posting of workers (violations of rules stipulated in ZČmIS and ZČmIS-1, the Transnational Provision of Services Act, which refer to violations to the *posting to Slovenia*) have increased by nearly 10 times since 2022 (7 violations in 2022 versus 68 violations in 2023). Because there is no information available about the number of inspections targeting the posting of workers conducted in 2022 and 2023 (see *section 3.3*), it cannot be inferred whether this increase is due to increased fraudulent activities or increased activities of the inspectorate. The inspectorate specifically notes that foreign employers are poorly informed about the strict requirements for the posting of workers as stated in the Transnational Provision of Services Act. Many infringements may therefore be considered as unintentional and due to insufficient information. It can also be seen in *Table a8 in Annex III* that most of the infringements to the Transnational Provision of Services Act concern foreign employers who provided services in Slovenia despite not meeting the required conditions (57.4% of the 68 violations), and foreign employers who did not notify the authorities about the intention to provide services in Slovenia or the services provided did not match the notification (22.1% of the 68 violations). Regarding the 72 violations of the Employment Relations Act (which concerns violations concerning the *posting of workers from Slovenia*), the majority concern an employment contract for a posted worker which does not contain all compulsory information (88.9% of the 72 violations). In general, Slovenia reports that the majority of violations are due to not meeting administrative requirements. Even though the number of inspections involving the enforcement of the posting rules is not known, Slovenia does report that in total 15 512 infringements were identified by the Labour Inspectorate, indicating that 1.0% of infringements (156 out of 15 512) concern the three Acts mentioned.

Finally, in **Slovakia**, 29 infringements were found in inspections related to the enforcement of the posting rules. Most of these infringements, namely 14 or 48.3%, concern infringements against the rule that the wage conditions shall be at least as favourable as those of a comparable employee of the employer to whom employees are transferred (see *Table a8 in Annex III*). The second main type of infringement, 9 infringements or 31.0% in total, concern the notification obligation, namely that the posting employer shall notify the National Labour Inspectorate about the posting of their employees on the day of the commencement of posting at the latest.

Table 4. Number of infringements found in inspections related to the enforcement of the posting rules, 2023¹⁰⁰

	Number of infringements found in inspections related to the enforcement of the posting rules (A)	Number of inspections involving the enforcement of the posting rules (B)	Infringement rate (A/B)
AT	Financial Police: 233 posted workers suspected of being underpaid + 399 complaints for not providing wage documentation BUAK: inspected posting companies suspected of committing underpayment + 259 complaints filed by BUAK against companies related to the underpayment of 689 posted workers	Financial Police: 3 443 posted workers controlled BUAK: 2 250 posting companies inspected	Financial Police: 6.8% BUAK: 25.5%
BE	3 429 NSSO: 1 571 NISSE: 171 TSW/CLS: 1 687	7 759 NSSO: 2 481 NISSE: 653 TSW/CLS: 4 625	44.2% NSSO: 63.3% NISSE: 26.2% TSW/CLS: 36.5%
DE	2 961 initiated administrative offence proceedings regarding sections of the Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (Arbeitnehmer-Entsendegesetz – AEntG) (2022).		
ES	54	892	6.1%
FR		14 156 (2022)	
IT	324 workers received protection from INL for infringements related to posting of which <ul style="list-style-type: none"> • 163 in services • 129 in construction • 6 in agriculture • 3 in industry • 23 n.a. 		
LT	SLI: 10 companies (2022) TSA: 7	SLI: 47 companies (2022) TSA: 2 784	SLI: 21.3% (2022) TSA: 0.3%
NL	NLA – MPO: 27 (2020) SVB: 19 inspections (covering 802 posted workers) (2019)	NLA – MPO: 107 (2020) SVB: 70 inspections (covering 5 589 posted workers) (2019)	NLA – MPO: 25.2% (2020) SVB: 27.1% (14.3% of posted workers) (2019)
PL	PIP: 457 persons posted from Poland ZUS: 123	PIP: 2 200 persons posted from Poland ZUS: 25 973	PL: 20.8% of persons posted from Poland, 75% of inspections on postings to Poland ZUS: 0.5%
SI	16 violations regarding Employment, Self-Employment and Work of Foreigners Act 68 violations regarding Transnational Provision of Services Act 72 violations regarding Employment Relations Act		
SK	29		

* Answers provided to the question “Please provide, by enforcement body, statistics on the outcome (infringement or not) of the inspections related to the enforcement of the posting rules in your country.”

** When a cell is empty, it means that no response could be provided by the Member States in the questionnaire.

Source Questionnaires filled out by national experts

¹⁰⁰ In Switzerland, in 2023, the cantonal CTs carried out 102 checks on companies posting workers to verify compliance with the minimum wages. On this occasion, the cantonal CTs noted 46 violations of the compulsory minimum wage. In 2023, the CPs carried out 4 309 checks on companies posting workers and 9 720 checks on posted workers. The infringement rate was 23% at company level (17% in 2022) and 24% at the person level (18% in 2022). At the same time, checks on posted self-employed increased by 4%. In 2023, implementing agencies verified the activity status of 4 718 posted self-employed; in 6% of completed controls, bogus self-employment was suspected (7% in 2022) (SECO – Direction du travail, 2024).

3.5 Sanctions imposed

A following step, after infringements are found in inspections, is to impose sanctions. As could be seen in the overview of the definition of ‘sanction’ provided by Member States, this can take on many different forms such as fines, warnings, work stoppage, etc. (see *Table a5* in *Annex III*). However, it becomes clear from *Table 5* that not many Member States have data available on sanctions.

Austria reports requested fines of over € 4.1 million for the Financial Police and € 2.7 million for the *LSDB* Statistics. However, it is important to point out that it relates to fines *requested*. This means that the infringement has not yet been proven and the penalties imposed may be (much) lower. A more detailed overview of the types of sanctions imposed is provided in *Table a9* in *Annex III*. This shows that for the Financial Police, the sanctions mainly concern fines for infringements related to not making a correct prior notification (31.9% of all fines) and providing wage documentation (26.1%). Regarding the *LSDB* Statistics, it primarily relates to underpaying workers (81.2% of all fines) and failing to present wage documentation (10.2% of all fines, all concerning BUAK).

Only the NSSO in **Belgium** could provide more information on the sanctions imposed. Even though this is an important enforcement body (2 481 investigations out of 7 759 (see *Table 3* in *section 3.3*) and 1 571 positive investigations out of 3 429 (see *Table 4* in *section 3.4*)), a lot of information on the sanctions following the positive investigations is missing, particularly from *TSW/CLS*. For the *NISSE*, for inspections on social dumping, the sanction is mainly a proposal for regularisation because of the withdrawal of a PD A1. In total, the NSSO imposed 2 007 sanctions for the 1 571 inspections with an infringement, which shows that one infringement can lead to several sanctions. Most of these 2 007 sanctions concern a Pro Justitia drafted (= an official report) (24.8%), a penalty report (15.6%), a warning (15.6%), and a regularisation (15.5%) (see *Table a9* in *Annex III* for a detailed overview).

In **Germany**, in 2022, 2 311 administrative offense proceedings were settled, of which 1 197 fine notices, 406 terminations of the proceedings according to an article, 23 recovery orders, and 97 warnings with a fine. It should be noted that there is not necessarily a causal relationship between the initiated and settled administrative offense proceedings in the respective year. This is due to the fact that the completion and the associated time spent on investigating the offense are not necessarily linked. Most of the fine notices (660 out of 1 197 or 55.1%) were in the main or ancillary building industry, while also 237 out of 406 terminations of the proceedings (or 58.4%) occurred in this sector. Data on (warning) fines, recovery and forfeiture amounts regarding the *AEntG* indicate an amount of more than € 6.6 million in 2022 of which 83.4% concerned the minimum wage and (other) working conditions. The majority of these fines/recovery/forfeiture amounts occurred in main or ancillary building industry (48.3%) and the care sector (28.3%). However, it should be noted that this includes many different elements, and it is not possible to extract only the actual amount of recovery.

Spain reported € 223 884 in sanctions.

In **Lithuania**, the 10 cases with infringements found by the *SLI* (see *Table 4* in *section 3.4*), led to two fines of € 210, seven fines of € 180 - € 200, and one fine of € 120. Furthermore, following the seven infringements found by the *TSA* in 2023, sanctions were imposed in the form of fines between € 300 and € 500. More in depth information on these sanctions can be found in *Table a9* in *Annex III*. Furthermore, Lithuania remarks that no data related to specific breaches of the posting rules are collected by the *SLI* and the *SSIFB* in case of general inspections where most probably also breaches related to posting of workers are detected.

PIP in **Poland** reported 122 misdemeanours in 2023, 6 requests to courts for penalties, 35 fines imposed in the form of a penalty ticket, a total amount of fines imposed of PLN 47 500¹⁰¹, and 19 educational measures. The evolution from 2021 to 2023 indicates a growth in all these elements of

¹⁰¹This corresponds to around € 10 956. Source: https://commission.europa.eu/funding-tenders/procedures-guidelines-tenders/information-contractors-and-beneficiaries/exchange-rate-inforeuro_en

sanctions. On the one hand, it could be attributed to the effectiveness of inspections, while on the other hand it might also be ‘signum temporis’, demonstrating the growing disregard to rules.

While in **Slovenia**, it was not possible to get statistics on the imposed sanctions related to the infringements of the posting rules, it can be reported that the Labour Inspectorate identified 15 512 infringements in total, imposed sanctions in 7 135 cases and reported suspected criminal activity in 29 cases. Furthermore, the total sum of fines issued by the Labour Inspectorate amounts to € 3 734 919.

Finally, in **Slovakia**, financial sanctions in conjunction with the infringements indicated in *section 3.4* cannot be provided, because of the absorption principle. This principle means that for multiple labour law violation the employer may receive just one financial sanction (taking into account the most severe labour law violation and absorbing other sanctions for other violations).

Table 5. Sanctions imposed as result of the infringements detected during inspections related to the enforcement of the posting rules, 2023^{102,103}

AT	Financial Police: requested fines € 4 172 050 LSDB Statistics: requested fines € 2 717 580
BE	NSSO: 2 007 sanctions Figures reported by SIIS: - Unpaid social security contributions (incl. additionally imposed social security contributions): € 7 433 924 - Rectification of rights/duties of citizens: € 14 793 932
DE	2 311 settled administrative offence proceedings regarding AEntG of which 1 197 fine notices, 406 terminations of the proceedings according to an article, 23 recovery orders, 97 warnings with a fine (2022). The remaining number of settled offence proceedings have not been attributed to one of the different types. (Warning) fines, recovery and forfeiture amounts € 6.688.270 (2022)
ES	€ 223 884
FR	
IT	
LT	SLI: 2 fines of € 210, 7 fines of € 180 - € 200, 1 fine of € 120 (2022) TSA: 7 fines between € 300 and € 500
NL	
PL	PIP: 122 misdemeanours, 6 requests to courts for penalties, 35 fines imposed in the form of a penalty ticket, a total amount of fines imposed of PLN 47 500, and 19 educational measures
SI	
SK	

* Answers provided to the question “Please provide, by enforcement body, statistics on the sanctions imposed as result of the infringements detected during inspections related to the enforcement of the posting rules in your country.”

**When a cell is empty, it means that no response could be provided by the Member States in the questionnaire.

Source Questionnaires filled out by national experts

¹⁰² In Luxembourg, in 2023, 6 604 compliance order (requiring companies to comply with regulation within a specified period) were issued to foreign companies and 2 152 administrative fines were given for an amount of € 8 876 000 (Inspection du travail et du mines, 2024).

¹⁰³ In Switzerland, if the checks reveal undercutting compared to the usual wages in the locality, profession, or branch, the CTs carry out conciliation procedures with the aim of having the wages adjusted by the offending companies. In 2023, 81% of these procedures were successful for companies posting workers, while the success rate for Swiss companies was 54%. In the event of abusive and repeated underbidding, the authorities examine the facilitated extension of a collective labour agreement or the enactment of a standard employment contract providing for mandatory minimum wages. In sectors subject to a mandatory minimum wage (extended CCT or CTT), sanctions in the form of fines or bans on providing services in Switzerland may also be imposed depending on the seriousness of the offense. In 2023, cantonal authorities imposed 1 799 fines and issued 601 bans on providing services in Switzerland (SECO – Direction du travail, 2024). Note: CT = commissions tripartites – Tripartite Commissions, CTT = Contrat-type de travail – Standard employment contract.

3.5.1 Withdrawal of the Portable Document A1

Article 5(2) of Regulation 987/2009 stipulates that if there is any doubt about the validity of a PD A1 or the accuracy of the facts on which the PD A1 was granted, the institution of the Member State that received the PD A1 shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of the PD A1. Decision No A1 of the Administrative Commission of 12 June 2009 provides more guidance on the steps and stages that could be followed in case there are doubts about the validity of a PD A1 or the accuracy of the facts on which the PD A1 was granted.¹⁰⁴

3.5.1.1 From the perspective of the receiving Member State

This subsection lists some receiving Member States of incoming posted workers who have made a request for withdrawal of a PD A1 to the competent public authority in the sending Member State.

In **Belgium**, in 2023, a total of 940 PDs A1 were withdrawn by the competent Member State, and the *NSSO* reported 1 200 fictitious PDs A1. Furthermore, it is reported that *NISSE* started the dialogue and conciliation procedure to contest 351 PDs A1 in 2023 (SIIS, 2024).

Box III – The OSIRIS-platform of Belgium

In order to monitor the dialogue and conciliation procedure with other Member States concerning the validity of the PD A1, Belgium initiated the OSIRIS platform in June 2015. This opens up a lot of interesting statistics. From its inception until 1 July 2024, around 2 600 files have been processed through OSIRIS. Eight out of ten files were already settled in the first phase of the dialogue and conciliation procedure (i.e., between the competent institutions). Most of the files concern PDs A1 issued by Poland (32% of files), Portugal (13%), and Romania (11%). New data available since 1 September 2023 reveal other interesting characteristics of the files handled through OSIRIS. For instance, the majority of files concern a request of information (71%), and a quarter concern a review of legislation with a withdrawal of a PD A1 (25%). Furthermore, 46% of the files opened since 1 September 2023 concern the construction of buildings and 35% of files concern specialised construction activities. Finally, another new variable, which has only become available since the second quarter of 2024, is the legal motive for the request. It appears that the lack of substantial activities of the employer in the sending Member States is the most common legal motive.

At the beginning of 2024, 209 cases were ongoing in **France**,¹⁰⁵ with the financial value estimated at around € 210 million.¹⁰⁶ These cases mainly concern the construction sector (80 cases) and temporary agency work (27 cases). These cases mainly apply to Portugal (58 cases), Romania (42 cases), Poland (21 cases) and Luxembourg (18 cases).

In 2019, the institutions in the issuing Member States withdrew a total of 445 PDs A1 issued to **the Netherlands** at the request of the *SVB*. However, at the end of that year, the *SVB* still had 2 153 outstanding requests to withdraw a PD A1. Enforcement on the rules on applicable legislation allowed the tax authorities in the Netherlands to potentially levy € 9 681 288 in premiums.¹⁰⁷ In 2020,

¹⁰⁴ The dialogue and conciliation procedure comprises three stages (actually two stages in the dialogue procedure and one conciliation procedure). In the first stage, consultations take place between the requesting institution and the requested institution. Here, the requesting institution must provide relevant supporting evidence that gave rise to the question. The requesting institution should acknowledge receipt of the question within ten working days. Furthermore, the requesting institution should communicate the outcome of the study to the requesting institution within three months of receipt of the request. If no agreement can be reached between the requesting institution and the requested institution, they will notify their competent authorities, which will then try to reach an agreement in the second phase of the dialogue and conciliation procedure. Finally, as a third step in the dialogue and conciliation procedure, the competent authorities may bring the matter before the Administrative Commission.

¹⁰⁵ In order to make controls more effective, bilateral social security agreements and/or memorandums of understanding have been set up in France with the social security bodies of Belgium, Luxembourg, Italy, Spain, Poland and Portugal. The purpose of these agreements is to encourage the exchange of information, to develop genuine cooperation in the area of inspections and to provide for the possibility of joint action.

¹⁰⁶ Urssaf (2024). <https://www.urssaf.org/files/Espace%20media/Dossier%20de%20presse/NAT-DP-Bilan%20LCTI%202023-VFF.pdf>

¹⁰⁷ See SVB annual report 2019: <https://zoek.officielebekendmakingen.nl/blg-933873.pdf>

539 PDs A1 were withdrawn by the competent institutions in another Member State at the request of the *SVB*. Moreover, 1 653 PDs A1 issued by the competent public authorities in another country had been advised by the enforcement unit to be withdrawn. Of these 1 653 cases, the foreign sister body had not yet taken a decision to withdraw them by the end of 2020. This yielded a potential of premiums to be collected for and by the Dutch tax authorities of € 9 920 953. In 2021, there were 2 465 PDs A1 requested to be withdrawn by the competent public authorities in another Member State. Finally, 66 PDs A1 were requested to be withdrawn in 2022 and 32 PDs A1 in 2023.

In 2023, **Germany** requested the withdrawal of 655 PDs A1.

3.5.1.2 From the perspective of the sending Member State

This subsection lists some sending Member States of posted workers who have made a withdrawal of a PD A1.

In 2023, 540 PDs A1 (incl. 215 falsified PDs A1) were withdrawn by the *ZUS* in **Poland**.¹⁰⁸ Between January and September 2024, the *ZUS* detected 74 falsified PDs A1. It is to be hoped that an additional significant support in the fight against the falsification of these documents will be the ‘*ZUS Validator Device*’ made available by the *ZUS* online.¹⁰⁹ The most common reasons for the withdrawal of PDs A1 by the *ZUS* are: the work abroad did not take place – this accounted probably to about 80-90% of all decisions issued in the present field; ascertainment of the lack of fulfilment of conditions for maintaining the application of Polish legislation under the Coordination Regulations; other reasons (e.g. lack of fulfilment of the condition of legal residence in Poland in the case of third-country nationals, lack of registration for the purposes of social security, etc.). Finally, in absolute terms, the number of PDs A1 withdrawn are only a fraction of the total number of PDs A1 issued (in 2023, 849 432 PDs A1 were issued).

In 2022, the Social Insurance Agency (*SLA*) in **Slovakia** shortened the validity of 30 022 PDs A1 and 914 PDs A1 were withdrawn. In 2023, it shortened the validity of 28 757 PDs A1 and 774 PDs A1 were withdrawn. There are several main reasons why a PD A1’s validity is shortened. First, it can be an automatic termination of the validity of the PD A1 based on *SLA* registry information (e.g., termination of employment). Second, there can be a temporary suspension of a business license (permit to operate a business). Third, there might be non-payment of insurance premiums despite repeated requests from the *SLA*. Regarding the reasons for declaring a PD A1 invalid, and thus withdrawing the PD A1, three main reasons are provided as well. First, the failure to post workers as stated. Second, the failure to perform substantial activities within the territory of Slovakia. Third, the non-existence of a genuine registered office in the Slovak Republic (e.g., shell companies). The total number of officers working on PD A1 matters at both *SLA* headquarters and branch offices is 161. Most branch officers handling PD A1-related tasks have broader responsibilities beyond issuing these certificates.

3.6 Recovery of sanctions imposed

The recovery of the sanctions imposed is a crucial last step in the enforcement chain. Without proper recovery of un(der)paid wages, un(der)paid social security contributions, and of financial penalties,

¹⁰⁸ It should be noted that a question about the validity of a PD A1 does not necessarily lead to its withdrawal. For instance, in 2021 questions expressing doubts regarding the correct determination of applicable legislation concerning 106 cases were received by the *ZUS*. They concerned 1 224 persons (mainly employed persons, to a lesser extent self-employed persons). The countries that sent in their applications were: Slovakia (54), Belgium (42), France (3), Czech Republic (3), Germany (2) and the Netherlands (2). Polish legislation was upheld in 86 cases. In 14 cases, it was changed to other than Polish legislation. In 6 cases, Polish legislation was upheld only for a part of the requested period. The *ZUS* upheld 3 075 PD A1 documents and withdrew 254 PDs A1.

¹⁰⁹ Cf. A. Szybkie, *Przeciwdziałanie przez ZUS w Polsce błędom i nadużyciom w zakresie właściwego ustawodawstwa i wydawania zaświadczeń A1 [Counteracting errors and abuses by Social Insurance Institution (ZUS) in Poland in the area of relevant legislation and issuing A1 certificates]*, ZABEZPIECZENIE SPOŁECZNE. TEORIA, PRAWO, PRAKTYKA, no. 15/2022, p. 29

impunity remains.¹¹⁰ Although it is a crucial final step in the enforcement chain, the issue of the recovery of sanctions is under-researched. Unfortunately, only a handful of Member States were able to provide data on this issue (see *Table 6*).

The *LSDB* Competence Centre in **Austria** reported that two back payments related to 36 workers with a total value of € 1 259.75 were requested. In total, € 150.38 in back payments were made. Furthermore, *BUAK* requested back payments for 4 workers, for which the amount is not known. There is limited data on back payments requested from companies that underpaid posted workers by not more than 10%. Data on back payments are only recorded when workers were underpaid by not more than 10%. In such cases, employers can avoid a penalty if they pay the outstanding sum. In cases of underpayment of more than 10%, back payments do not prevent a penalty and no requested back payment or provided back payment is recorded in the *LSDB* statistics. Furthermore, back payments requested in proceedings initiated by *BUAK* are not recorded. This suggests that the data include no or only very limited information on back payments in the construction sector. Data on the recovery of un(der)paid remunerations likely present a severe underestimation because these data are only collected in limited instances.

In 2023, around € 7.4 million was claimed by the **Belgian** social inspection services for the recovery of unpaid social security contributions (including additional imposed social security contributions). The rectification of rights/duties of citizens because of the non-compliance with the minimum wages and conditions amounted to € 14.8 million in the same year. However, it is important to stress that these amounts concern the claimed amounts. These amounts are mentioned at the end of an investigation when the actual recovery still needs to take place. Hence, the actual share of recovered amounts in the total amount claimed is not known, although it is assumed that the recovery rate is on the low side in reality.

For **Germany**, no specific data on posting are available. Data provided by German customs in their annual statistics report are related to a general and aggregated amount of asset recovery measures.

In **Spain**, recovery is carried out by the Autonomous Communities for labour offences and by the Tesorería General de la Seguridad Social (Social Security Fund in charge of insurance and contribution payment) for infringements and social security claims on this matter. The *OEITSS* does not perform this function and specific data from other bodies related to labour inspection actions are not available. The Labour Inspectorate is limited to proposing sanctions, while the decision on the sanction and the recovery of the sanction is made by different national bodies.

In 2023, controls generated € 168 million in adjustments relating to cross-border social security fraud in **France**.

In case of incoming posted workers in **Italy**, the recovery of financial sanctions is not in the hands of the Italian public institutions, unless it is proven that the posting is “not genuine” and the PD A1 is cancelled, thus resulting in a case of undeclared work. In case of outgoing posted workers, the employer receives a debit notice, which has the value of an enforceable title for recovery and can appeal or pay the due contributions within 30 days. However, no data on this are available.

In **Lithuania** as well, the *SLI* and *TSA* indicate they do not have/collect such data. Furthermore, other enforcement bodies mentioned in the questionnaire by Lithuania also do not collect this specific information related to posting of workers.

The *NLA* and the Tax and Customs Administration in **the Netherlands** cannot provide statistics on the recovery of financial sanctions (fines) and un(der)paid remunerations in the Netherlands (as a result of sanctions imposed for infringements detected during inspections related to the enforcement of the posting rules, any other labour law, or fiscal laws). In 2020, the Tax and Customs Administration was able to levy € 1.8 million in premiums because of the enforcement of PDs A1 by the *SVB*.

¹¹⁰ Recital 38 of the Enforcement Directive states that it “is a matter of concern that there are still many difficulties for Member States to recover cross-border administrative penalties and/or fines and therefore the mutual recognition of administrative penalties and/or fines needs to be addressed.”

Although **Poland** is not able to provide figures specifically related to the posting of workers, it can be reported that the overall financial result of ZUS was PLN 489 million.¹¹¹ This amount includes audit findings that resulted in the allocation of contributions or their write-off, also for payers of contributions posting workers to other EU Member States.

Likewise, in **Slovenia** only the total sum of fines issued by the Labour Inspectorate is known (€ 3 734 918.67), but not how much is recovered or how much is related to the enforcement of the posting rules.

Finally, in **Slovakia**, in 2023 there were no requests from Labour Inspectorates to the National Labour Inspectorate¹¹² to provide assistance in regard to the recovery of financial sanction regarding infringements detected during inspections related to the enforcement of the posting rules.

Table 6. Recovery of financial sanctions (fines) and un(der)paid remunerations (incl. social security contributions) as a result of sanctions imposed for infringements detected during inspections related to the enforcement of the posting rules, 2023¹¹³

AT	LSDB Competence Centre: requested two back payments related to 36 workers with a total value of € 1 259.75. In total, € 150.38 in back payments were made. BUAK: requested back payments for 4 workers.
BE	Claimed amounts: - Recovery of unpaid social security contributions (incl. additionally imposed social security contributions): € 7 433 924 - Rectification of rights/duties of citizens: € 14 793 932
DE	
ES	Claimed amount of social security contributions for undeclared work: € 39 606
FR	URSSAF: In 2023, controls generated € 168 million in adjustments relating to cross-border social security fraud. ¹¹⁴
IT	
LT	
NL	Tax and Customs Administration: € 1.8 million in premiums as a result of the enforcement of PDs A1 by the SVB (2020)
PL	
SI	
SK	

* Answers provided to the question “Please provide, by enforcement body, statistics on the recovery of financial sanctions (fines) and un(der)paid remunerations (incl. social security contributions) in your country (as a result of sanctions imposed for infringements detected during inspections related to the enforcement of the posting rules).”

** When a cell is empty, it means that no response could be provided by the Member States in the questionnaire.

Source Questionnaires filled out by national experts

¹¹¹This corresponds to around € 112.8 million. Source: https://commission.europa.eu/funding-tenders/procedures-guidelines-tenders/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en

¹¹² The National Labour Inspectorate is in accordance with the Act No. 351/2015 Coll. authorised to request assistance of another authority in a Member State of establishment of the posting employer to recover a penalty rendered by one of the Labour Inspectorates.

¹¹³ In Luxembourg, in 2023, the amount of the 2 152 fines imposed is € 8 876 000 for posting workers, which is the first decision. The total or partial discharges following objections amount to € 3 447 500. The amount of fines imposed (2nd decision) is € 5 428 500, and the amount of total or partial discharges following free recourse is € 626 000. Finally, the amount of fines imposed (3rd decision), is € 4 802 500 (Inspection du travail et du mines, 2024).

¹¹⁴ Urssaf (2024). <https://www.urssaf.org/files/Espace%20media/Dossier%20de%20presse/NAT-DP-Bilan%20LCTI%202023-VFF.pdf>

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<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2024%3A320%3AFIN&qid=1714489010124>
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Annex I – National experts

Member State	National Experts
Austria	Leonard Geyer, Nikko Bilitza & Sonila Danaj (European Centre)
Belgium	Frederic De Wispelaere, Lynn De Smedt & Dirk Gillis (HIVA-KU Leuven)
France	Marco Rocca (CNRS – Université de Strasbourg) & Pierre Lesuisse (Université de Strasbourg)
Germany	Eckhard Voss, Katharina Schöneberg & Marzie Ghiasi (wmp consult)
Italy	Rossana Cillo & Fabio Perocco (UNIVE - Ca' Foscari University of Venice)
Lithuania	Ramunė Guobaitė & Inga Blažienė (LCSS)
Poland	Marcin Kiełbasa, Monika Szaraniec & Małgorzata Mędrala (KUE)
Slovakia	Nina Holičková, Martin Kahanec & Martin Guzi (CELSI)
Slovenia	Mojca Vah Jevšnik & kristina Toplak (ZRC SAZU)
Spain	Dolores Carrascosa Bermejo (Universidad Pontificia Comillas) & Óscar Contreras Hernández (Universidad de Castilla-La Mancha)
The Netherlands	Henri Bussink, Arjan Heyma & Albert Rutten (SEO Amsterdam Economics)

Annex II – Questionnaire

Some key principles are defined at EU level regarding the labour and social security rules applicable to workers when they are posted to another Member State.¹¹⁵ For instance, from day one, the posted worker is entitled to all the elements of remuneration required by law or by a collective agreement made universally applicable of the receiving Member State.¹¹⁶ Moreover, s/he remains subject to the social security system of the sending Member State for a period of 24 months. These posting rules accompany several administrative obligations, such as applying for a Portable Document A1 (PD A1) in the sending Member State and making a prior declaration in the receiving Member State.

This questionnaire is designed to collect statistics on the enforcement of the posting rules defined at EU-level, more specifically of [Basic Regulation \(EC\) No 883/2004](#) and [Implementing Regulation \(EC\) No 987/2009](#) (the Regulations on the coordination of social security systems)¹¹⁷, [Directive 96/71/EC](#) (the ‘Posting of Workers Directive’)¹¹⁸, [Directive 2014/67/EU](#) (the ‘Enforcement Directive’), and finally of [Directive \(EU\) 2020/1057](#) (the Directive on posting drivers in the road transport sector).

The aim is to collect data for reference year 2023 on the number of inspections, the number of (labour) inspectors involved, the outcome of the inspections, the sanctions imposed, and the recovery of the financial sanctions. Where relevant and feasible, data on the enforcement of the labour and social security rules on the posting of workers should be disaggregated by enforcement body, matter (i.e., by law), sector of activity, and ‘sending’ versus ‘receiving’ perspective.

There are no harmonised definitions of the terms ‘inspector’, ‘inspection’, ‘infringement’, or ‘sanction’. Therefore, respondents to the questionnaires are asked to provide the definitions of these terms used within their country. The box of definitions below is purely indicative but could be useful for completing the questionnaire.

Terminology

Inspector: Inspectors are public officials appointed or recruited as inspectors (including sub-inspectors, controllers, or similar categories) who undertake advisory, control and monitoring tasks with respect to labour/social security legislation. They are responsible for initiating administrative or criminal procedures in case of non-compliance.

Inspection: An inspection occurs whenever one or more inspectors carry out a singular and distinct action to determine compliance with labour/social security legislation, whether proactively or reactively. Inspections can include among others visits of the workplace, the provision of preventive or advisory services, document checks, etc.

Type of inspections: Visits (proactive or reactive); other actions (document review, consultations with other institutions, advisory services, etc.).

Inspection visit: An inspection visit takes place every time one or more inspectors visit an economic unit in person to verify compliance with labour/social security legislation.

Infringement: An infringement is any violation of the rules as set out in the labour/social security legislation.

Sanction: Penalty imposed as a result of a detected infringement (e.g., fine, work stoppage, withdrawal of license, closure, imprisonment, etc.).

Source: partly based on [ILO \(2016\). Guide on the harmonization of labour inspection statistics.](#)

¹¹⁵ See also [The Practical Guide on Posting.](#)

¹¹⁶ See also the list of mandatory provisions regarding working conditions and the protection of workers’ health and safety (OSH) that must be respected (incl. the conditions of workers’ accommodation).

¹¹⁷ And [Regulation \(EU\) No 1231/2010](#) extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality.

¹¹⁸ And thus [Directive \(EU\) 2018/957](#) of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

- 1. Please provide an overview and a short description of the enforcement bodies involved in the enforcement of the labour and social security rules on the posting of workers in your country.**

For Questions 2 to 7: Where relevant and feasible, data on the enforcement of the labour and social security rules on the posting of workers should be disaggregated by enforcement body, matter (i.e., by law), sector of activity, and 'sending' versus 'receiving' perspective.

- 2. Please provide, by enforcement body, statistics on the number of inspectors involved (in full time equivalents (FTE)) in the enforcement of the posting rules in your country.**

- Definition of the notion of 'inspector':
- Reply to question 2:
 - a) Number of inspectors involved:
 - b) Number of inspectors involved in FTE:
- Total number of inspectors of the enforcement body (*will be used as denominator to estimate the share of inspectors involved in the enforcement of the posting rules in total enforcement staff*):
 - a) Total number of inspectors:
 - b) Total number of inspectors in FTE:
- Source(s):
- Data limitations:

- 3. Please provide, by enforcement body, statistics on the number of inspections related to the enforcement of the posting rules in your country.**

- Definition of the notion of 'inspection':
- Reply to question 3:
- Total number of inspections of the enforcement body (*will be used as denominator to estimate the share of inspections related to the enforcement of the posting rules in total*):
- Source(s):
- Data limitations:

- 4. Please provide, by enforcement body, statistics on the outcome (infringement or not) of the inspections related to the enforcement of the posting rules in your country.**

- Definition of the notion of 'infringement':
- Reply to question 4:
- Source(s):
- Data limitations:

- 5. Please provide, by enforcement body, statistics on the type of infringements detected during inspections related to the enforcement of the posting rules in your country.**

- Reply to the question 5:
- Source(s):
- Data limitations:

6. Please provide, by enforcement body, statistics on the sanctions imposed as result of the infringements detected during inspections related to the enforcement of the posting rules in your country.

- Definition of the notion of ‘sanction’:
- Reply to question 6:
- Source(s):
- Data limitations:

7. Please provide, by enforcement body, statistics on the recovery of financial sanctions (fines) and un(der)paid remunerations (incl. social security contributions) in your country (as a result of sanctions imposed for infringements detected during inspections related to the enforcement of the posting rules).

- Definition of the notion of ‘recovery’:
- Reply to the question 7:
- Source(s):
- Data limitations:

Annex III – Inspection statistics on the enforcement of the posting rules

Table a1. Enforcement bodies involved in the enforcement of the labour and social security legislation applicable to posting of workers

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Belgium	Labour inspectorate	De Algemene Directie Toezicht op de Sociale Wetten (TSW)/Direction générale Contrôle des lois sociales (CLS)	Directorate-General for Supervision of Social Law of the FPS Employment, Labour and Social Dialogue	Units 'Posted Workers' and 'Transport'	Inbound	Federal	Labour
Belgium	Labour inspectorate	Algemene Directie Toezicht op het welzijn op het werk (TWW)/Direction générale Contrôle du bien-être au travail (CBE)	Directorate General Control on well-being at work of the FPS Employment, Labour and Social Dialogue	/	Inbound	Federal	OSH
Belgium	Social security inspectorate	Inspectie Rijksdienst voor Sociale Zekerheid (RSZ)/Office National de Sécurité Sociale (ONSS)	Inspectorate of the National Social Security Office (NSSO)	Unit 'Grensoverschrijdende tewerksstelling' (GOT)/'Occupation transfrontalière' - Cross-border employment unit	Inbound	Federal	Social security
Belgium	Social security inspectorate	Rijksinstituut voor de Sociale Verzekeringen der Zelfstandigen (RSVZ)/Institut national d'assurances sociales pour travailleurs indépendants (INASTI)	Inspectorate of the National Institute for Social Insurance of the Self-Employed (NISSE)	Directie Eerlijke Concurrentie (ECL)/ Direction Concurrence Loyale (ECL) -Fair competition Directorate	Inbound	Federal	Social security
Belgium	Regional inspectorate	<i>Flemish Region:</i> Dienst Economische Migratie; <i>Walloon Region:</i> SPW Economie, Emploi, Recherche; <i>Brussels Region:</i> Bruxelles Economie et Emploi, Direction Migration Economique; <i>German-speaking Community:</i> Ministerium der Deutschsprachigen Gemeinschaft	<i>Flemish Region:</i> Department Economic Migration; <i>Walloon Region:</i> Economy, Work and Research Department; <i>Brussels Region:</i> Brussels Economy and Work, Economic Migration Directorate; <i>German-speaking Community:</i> Ministry of the German-speaking Community	/	Inbound	Regional	Recognition of the foreign temporary employment agency

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Belgium	Social security services	Rijksdienst voor Sociale Zekerheid (RSZ) - Dienst internationale betrekkingen / Office National de Sécurité Sociale (ONSS) - Direction Relations internationales	National Social Security Office (NSSO) - International Relations Department	/	Outbound	Federal	Social security (issuance PD A1 to workers)
Belgium	Social security services	Rijksinstituut voor de Sociale Verzekeringen der Zelfstandigen (RSVZ)/Institut national d'assurances sociales pour travailleurs indépendants (INASTI)	National Institute for Social Insurance of the Self-Employed (NISSE)	/	Outbound	Federal	Social security (issuance PD A1 to self-employed)
Austria	Anti-fraud unit	Finanzpolizei	Financial Police	/	Inbound	Federal	Labour
Austria	Social partner organisation/paritarian organisation	Bauarbeiter Urlaubs- und Abfertigungskasse - BUAK	Construction Workers Annual Leave and Severance Pay Fund	/	Inbound	Sectoral (Construction sector)	Labour/Social security (holiday and severance pay)
Austria	Part of the ÖGK (social security services)	Kompetenzzentrum Lohn- und Sozialdumpingbekämpfung (Kompetenzzentrum LSDB)	Competence Centre for Combating Wage and Social Dumping - LSDB Competence Centre (LSDB CC)	/	Inbound	Federal	Labour
Austria	District administrative authorities	Bezirksverwaltungsbehörden	District administrative authorities	/	Inbound	Local	OSH, Labour
Austria	Labour inspectorate	Arbeitsinspektion	Labour Inspectorate	/	Inbound	Federal	OSH
Austria	Social security services	Österreichische Gesundheitskasse (ÖGK)	Austrian Health Insurance Fund	/	Outbound	Federal	Social security (issuance PD A1 to workers)
Austria	Social security services	Sozialversicherungsanstalt der Selbständigen (SVS)	Social Insurance Institution for the Self-Employed	/	Outbound	Federal	Social security (issuance PD A1 to self-employed)
Austria	Social security services	Versicherungsanstalt öffentlich Bediensteter, Eisenbahnen und Bergbau – (BVAEB)	Insurance Institute for Public Servants, Railways and Mining	/	Outbound	Federal	Social security (issuance PD A1 to public servants, railways, and mining)

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Germany	Labour inspectorate	Bundeszollverwaltung	Federal Customs Administration	Finanzkontrolle Schwarzarbeit (FKS) - Financial Control of Undeclared Work	Inbound	Regional/federal state level and local units	Labour, working conditions, social security, and social benefits; residence status; compliance with temporary agency act; minimum wage compliance; compliance with Act to Secure Workers' Rights in the Meat Industry; compliance with regulation on employment under exploitive working conditions
Germany	Labour inspectorate	Gewerbeaufsichtsämter	Trade supervisory offices	Work and occupational health as well as technical and environmental safety and health	Inbound	Federal state and district or local level	Labour, OSH
Germany	Labour inspectorate	Berufsgenossenschaften (BG)	Social Accident Insurance Institutions	Focus more narrowly on health and safety and risk prevention for occupational groups/economic sectors	Inbound	Federal, regional, and local level	Labour, OSH
Germany	Labour inspectorate	Bundesamt für Logistik und Mobilität (BALM)	Federal Office for Logistics and Mobility	Straßenkontrolldienst - Road control service	Inbound	Federal, sectoral (road transport)	Labour (road inspections)
Germany	Social security services	Krankenversicherungen; Deutsche Rentenversicherung (DRV); Berufsständische Versorgungseinrichtungen (ABV)	Health Insurance companies; Germany Pension Insurance ; Pension Schemes of the liberal professions	SV - Meldeportal - Social insurance reporting portal	Outbound	Federal	Social security (issuance PD A1) depending on health insurance status of posted workers
Spain	Labour and Social Security Inspectorate	Organismo Estatal Inspección de Trabajo y Seguridad Social (OEITSS)	National Labour and Social Security Inspectorate State Agency	Unidad Especial de Coordinación sobre Lucha contra el Fraude en el Trabajo Transnacional - EU Labour Mobility Unit	Inbound and outbound	Federal	Labour, OSH, TCNs and social security (control of foreign and national PD A1 providing information to the TGSS)

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Spain	Regional labour inspectorates (Cataluña and País Vasco)	Inspección de Trabajo de Cataluña (ITC) and Inspección de Trabajo del País Vasco (LIT)	Catalonian Labour Inspectorate and Basque Country labour Inspectorate	/	Inbound and outbound	Regional (Catalonia and the Basque country)	Labour and OSH These regional bodies cannot control Social Security or foreign PDA1. Social Security is out of the scope of their competences.
Spain	Social security body	Tesorería General de la Seguridad Social (TGSS)	General Treasury of the Social Security	/	Outbound	Federal	Social security (issuance PD A1 to workers)
France	Labour inspectorate	Direction générale du Travail (DGT)	Directorate General of Labour	/	Inbound	Federal	Labour
France	Social security services/inspectorate	Caisse Primaire d'Assurance Maladie (CPAM)	French Health Insurance	/	Outbound	Federal	Social security (issuance PD A1 to workers)
France	Social security services/inspectorate	Agences de sécurité sociale pour les travailleurs indépendants	Social security agencies for the self-employed	/	Outbound	Federal	Social security (issuance PD A1 to self-employed)
France	Social security services/inspectorate	Caisse de Mutualité sociale agricole	Agricultural Social Security Fund	/	Outbound	Federal	Social security (issuance PD A1 to agricultural workers)
France	Social security services	Agence Centrale des Organismes de Sécurité Sociale (ACOSS)	Central Agency of Social Security Organisations	/	Outbound	Federal	Social security
France	Social security services	Caisse centrale de Mutualité Sociale Agricole (CCMSA)	Central Fund for Agricultural Social Security	/	Outbound	Federal	Social security
France	Social security services/inspectorate	Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales - URSSAF	Union for the Collection of Contributions to Social Security and Family Allowances	/	Inbound and Outbound	Federal	Checking payment of social security for inbound postings/social security (issuance PD A1)
Italy	Labour inspectorate	Ispettorato nazionale del lavoro (INL)	National Labour Inspectorate	/	Inbound	Federal	Labour, OSH
Italy	Labour inspectorate	Direzioni interregionali del lavoro (DIL)	Interregional labour directorates	/	Inbound	Regional	Labour, OSH
Italy	Labour inspectorate	Ispettorati di area metropolitana (IAM)	Metropolitan area inspectorates	/	Inbound	Regional (Provincial)	Labour, OSH

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Italy	Labour inspectorate	Ispettorati territoriali del lavoro (ITL)	Territorial labour inspectorates	/	Inbound	Regional (Provincial)	Labour, OSH
Italy	Security agency	Comando Carabinieri per la Tutela del Lavoro	Carabinieri Command for the Protection of Labour	/	Inbound	Federal	Labour (jurisdiction for criminal offences)
Italy	Financial Police	Guardia di Finanza	Financial Police	/	Inbound	Federal	Economics, finance, tax system
Italy	Social security services/inspectorate	Istituto nazionale della previdenza sociale (INPS)	National Institute of Social Security	/	Outbound	Federal	Social security (issuance PD A1)
Lithuania	Labour inspectorate	Valstybinė darbo inspekcija prie Socialinės apsaugos ir darbo ministerijos (VDI)	State Labour Inspectorate under the Ministry of Social Security and Labour (SLI)	/	Inbound	Federal	Labour, OSH
Lithuania	Social security services/inspectorate	Valstybinio socialinio draudimo fondo valdybos Vilniaus skyrius (Sodros Vilniaus skyrius)	Vilnius Division of The State Social Insurance Fund Board (Sodra Vilnius division)	Vilnius division	Outbound	Federal	Social security (issuance PD A1)
Netherlands	Labour inspectorate	Nederlandse Arbeidsinspectie	Netherlands Labour Authority (NLA)	Programma Internationaal, Schijnconstructies & Cao-naleving (2019-2022) en afdeling/vakgroep Analyse & Onderzoek (A&O) - Programme International, Fictitious Constructions, & Collective Labour Agreement Compliance (2019-2022) and Department/Subject Group Analysis & Research	Inbound	Federal	Labour
Netherlands	Tax authority	Belastingdienst	Tax and Customs Administration	Directies Uitvoerings- en Handhavingsbeleid - Directorates of Implementation and Enforcement Policy	Inbound	Federal	Tax system
Netherlands	Immigration authority	Immigratie- en Naturalisatiedienst (IND)	Immigration and Naturalisation Service	Directie Regulier Verblijf en Nederlanderschap, klantgroep Verlengingen en Zakelijk (Arbeid, Kennis & Talent, Studie & Uitwisseling) - Directorate Regular Residence and Dutch Citizenship, client group Extensions and Business (Labour, Knowledge & Talent, Study & Exchange)	Inbound	Federal	Migration

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Netherlands	Labour inspectorate	Stichting Naleving CAO voor Uitzendkrachten (SNCU)	Association for the Enforcement of Collective Agreements for Temporary Agency		Inbound	Sectoral	Labour (collective labour agreements) (Temporary Work Agencies)
Netherlands	Social security services/inspectorate	Sociale Verzekeringsbank (SVB)	Social Insurance Bank	Directie Dienstverlening Sociale Verzekeringen (DSV) - Directorate of Social Insurance Services Preventie & Handhaving Toepasselijke Wetgeving - Prevention & Enforcement Applicable Legislation	Inbound and outbound	Federal	Social security (PD A1)
Poland	Labour inspectorate	Państwowa Inspekcja Pracy - PIP	State Labour Inspection	Departament Legalności Zatrudnienia (Legality of Employment Department)	Inbound and outbound	Federal	Labour
Poland	Labour inspectorate	Główny Inspektorat Transportu Drogowego (GITD)	Chief Inspectorate of Road Transport	Biuro Nadzoru Inspekcyjnego, Główny Inspektorat Transportu Drogowego' - Office of Inspection Supervision of the GITD	Inbound	Sectoral (transport)	Labour
Poland	Social security services/inspectorate	Zakład Ubezpieczeń Społecznych (ZUS)	Social Insurance Institution	1. Departament Świadczeń Międzynarodowych i Wsparcia Rodzin ZUS (DMR) - Department of International Benefits and Family Support of the ZUS: implementation of tasks, among others, in the field of determining the applicable legislation in the implementation of international agreements; 2. Oddział ZUS w Siedlcach - ZUS Branch in Siedlce: handling requests from competent foreign institutions regarding the validity of A1 certificates and discrepancies as to the applicable legislation; 3. Oddział ZUS w Kielcach - ZUS Branch in Kielce: jurisdiction over common agreements concerning exceptions to Art. 11-15 Regulation 883/2004, handling requests for determination of temporary legislation from foreign institutions; 4. Oddział ZUS w Jasle - ZUS Branch in Jaslo: handling of certificates on being subject to insurance for foreign competent institutions, handling of A1/E101 certificates from foreign institutions, and handling of inquiries in the field of competent legislation forwarded by the DMR that cannot be assigned to the competent branch.	Inbound and outbound	Federal	Social security (issuance PD A1)

Member State	Type of enforcement body	Official Name (+ abbreviation)	Name in English (+ abbreviation)	Specific units	Inbound and/or outbound perspective	Level (federal, regional, sectoral)	Competences (labour, social security, ...)
Poland	Social security services	Kasa Rolniczego Ubezpieczenia Społecznego (KRUS)	Agricultural Social Insurance Fund	/	Outbound	Federal	Posting of agricultural workers
Poland	Security agency	Straż Graniczna	Border Guard	/	Inbound and outbound	Federal	Residence titles of TCNs
Poland	Health institution	Narodowy Fundusz Zdrowia –(NFZ)	National Health Fund	/	Outbound	Federal	Work related EHCs and specific benefits arising from documents S1 and DA1
Slovenia	Labour inspectorate	Inšpektorat Republike Slovenije za delo (IRSD)	Labour Inspectorate of the Republic of Slovenia	/	Inbound	Federal	Labour, OSH
Slovenia	Social security services/inspectorate	Zavod za zdravstveno zavarovanje Slovenije (ZZZS)	Health Insurance Institute of Slovenia	/	Outbound	Federal	Social security (issuance PD A1)
Slovakia	Labour inspectorate	Národný Inšpektorát práce	National Labour Inspectorate	/	Inbound	Federal	Labour
Slovakia	Social security services/inspectorate	Sociálna poisťovňa	Social Insurance Agency	/	Outbound	Federal	Social security (issuance PD A1)

Source Data reported by the national experts involved in the POSTING.STAT 2.0 project

Table a2. Definition of the notion of ‘inspector’

Austria	Belgium	Germany	Spain	France	Italy
<p>With reference to the data on the number of inspectors in Austria included in this report, inspectors are individuals tasked with carrying out inspections in relation with the Anti Wage and Social Dumping Law.</p>	<p>The definition/scope of ‘inspector’ is decided by the different bodies themselves. It does not only include social controller or inspector but can also include administrative personnel for instance.</p>	<p>The main enforcement body of posting rules is the German Customs Authority. Depending on the concrete purpose of inspections, the custom officers may cooperate with staff of other bodies, including police officers. Custom officers have quite strong executive power and authority when controlling individuals or checking documents. Pursuant to §14 of the SchwarzArbG, the customs authorities also have the same powers as the police enforcement authorities under the Code of Criminal Procedure and the Administrative Offences Act when prosecuting criminal and/or administrative offences. The FKS (Finanzkontrolle Schwarzarbeit, Financial Control Undeclared Work) officers are therefore investigators of the public prosecutor’s office.</p>	<p>Inspectors are public officials appointed or recruited as inspectors (including sub-inspectors, controllers, or similar categories) who undertake advisory, control and monitoring tasks with respect to labour/social security legislation. They are responsible for initiating administrative or criminal procedures in case of non-compliance.</p>	<p>Labour Inspectors are civil servants. They are regulated by the civil service statute and a specific decree, and they are guaranteed independence in the performance of their duties. They are responsible for ensuring the application of the provisions of the Labour Code and other legal provisions relating to working conditions, as well as the stipulations of collective labour agreements. They are also responsible, jointly (if applicable) with officers of the judicial police, for sanctioning and recording breaches of these provisions and stipulations.</p>	<p>The labour inspector of INL is responsible for carrying out supervision and control activities in matters of work and social legislation as well as in matters of health and safety at work. The labour inspector is called upon to guarantee compliance with the existing regulations, including tackling illegal work and preventing accidents in the workplace.</p>

Table a1. Definition of the notion of 'inspector' (continued)

Lithuania	The Netherlands	Poland	Slovenia	Slovakia
<p>There is no legal or administrative definition of the notion 'inspector'. However, an assessment of the national legal framework would suggest that an inspector is a natural person implementing the actions of public administration entities, who is in a legal subordination relationship of employment/civil service related to a specific public administration entity (legal person - employer) and has the relevant powers of inspection, checking and/or supervision as provided for in the legislation (in the CAO (Code of Administrative Offences) and others). The SLI inspectors, for example, are called inspectors, but for example SSIFB officials are not called inspectors, although they exercise supervisory (in Lithuania "priežiūros") and checks' (in Lithuanian "patikrinimo") functions in public administration. Moreover, an inspector (in Lithuanian "inspektorius") or another civil servant implementing checks or supervisions is usually a person with the status of a civil servant (although given that the concept of an inspector does not exist in the Lithuanian legal system, we are unable to confirm whether or not all the persons in question have the status of a civil servant).</p>	<p>An NLA inspector checks whether companies/employers comply with laws, decrees, and regulations in the field of labour (such as the Minimum Wage Act, the Working Conditions Act and the Working Hours Act).</p>	<p><u>ZUS</u>: The notion of 'social insurance inspector of the Social Insurance Institution' does not have a legal definition in the Social Insurance Act (nor in other legally binding provisions). However, the Act provides for the basic requirements concerning social insurance inspectors. Pursuant to its Art. 93 para. 1:</p> <ol style="list-style-type: none"> 1. An employee of the Social Insurance Institution may become a social insurance inspector provided that they: <ol style="list-style-type: none"> 1) have only Polish citizenship and enjoy full civil and civic rights; 2) have an impeccable reputation and have not been punished for an offence of intentional fault; 3) have a university degree; 4) have been employed in the ZUS headquarters or a field organisational unit of the Institution for at least two years; 5) have passed the qualifying examination for the position of the social insurance inspector with a positive result before a commission appointed by the chief social security inspector of the ZUS. <p>Under Art. 93 para. 2, the social security inspector shall be appointed by the President of the ZUS upon the proposal of the chief social security inspector.</p> <p><u>PIP</u>: When it comes to the State Labour Inspection, similarly to the above-mentioned social insurance inspectors there is no universal definition of the notion of 'a labour inspector'. Rather, the appropriate rules (especially the Act on the State Labour Inspection) govern their legal position and status.</p>	<p>Inspections are carried out independently by an inspector. An inspector can, given the circumstances of the case and their authorisation according to this Act and other regulations, independently decide on advising and assisting, and the choice of measures (Labour Inspection Act ZID-1, Article 8).</p>	<p>Inspector of labour as defined in the Section 10 par. 1 of the Act No. 125/2006 Coll. on labour inspection and on amendment of the Act. No. 82/2005 Coll. on illegal work and illegal employment and on amendment of certain acts ("Act No. 125/2006 Coll.") is a civil servant performing a civil service in the Labour Inspectorate if, after undergoing specialised theoretical and practical training, they have obtained special qualifications by passing a professional examination. The training of a civil servant applying for appointment as a labour inspector shall last for eight months. The content of the training is determined by the National Labour Inspectorate.</p>

Source Questionnaires filled out by Member States

Table a3. Definition of the notion of ‘inspection’

Austria	Belgium	Germany
<p>Inspections by the Financial Police are defined as inspections to ensure compliance with the Law Against Wage and Social Dumping in accordance with § 12 of that law which includes checks of ZKO forms, social security documents (E 101 or PD A1) and salary information.</p> <p>BUAK conducts inspections exclusively in the construction sector. Inspections are based on BUAKs mandate in §23a of the Construction Workers' Leave and Severance Pay Act (Bauarbeiter-Urlaubs- und Abfertigungsgesetz - BUAG) and include ensuring compliance with the Law Against Wage and Social Dumping (check ZKO, social security documents (E 101 or PD A1) and salary information) as well as check if construction workers are registered with BUAK.</p>	<p>There is a clear difference between the definition of ‘control’ (controle) and ‘investigation’ (onderzoek). A control is one moment, one action. An investigation has a starting and ending point and can consist of no or multiple controls. For social dumping, only the number of investigations is asked, so this is what is understood here as an inspection.</p> <p>Investigations are often individually reported, and it is ‘easier’ to report on as afterwards you label what has been done in this investigation. On the contrary, not all bodies were able to report the number of controls, and the scope of controls is more difficult as well. It is for instance harder to provide a breakdown between national and international aspects in a control than in an investigation.</p> <p>An investigation is an assessment by one or more actor(s) (i.e., a social inspector, or administrative staff) within one service about the compliant or non-compliant behaviour of the subject of the investigation (i.e., an employer, an employee, a self-employed person). An investigation may be conducted with regard to several subjects (matters) and may give rise to one or more results. Within one investigation, one or more controls may be carried out, which may take different forms.</p>	<p>Inspections according to the FKS audits are always comprehensive. Checks are always carried out to determine whether employers have properly registered their employees for social security, whether social benefits are or have been wrongly received, whether foreigners have the necessary work permits or residence permits to take up employment and also whether the minimum working conditions are being complied with or whether exploitative working conditions may exist.</p> <p>As defined in §2 of the SchwarzArbG, the following issues are examined in the context of inspections:</p> <ol style="list-style-type: none"> 1. the obligations pursuant to section 28a of Book IV of the Social Code arising from work or services are being or have been fulfilled, 2. social benefits pursuant to Books II and III of the Social Code are being claimed unlawfully in connection with carrying out work or services or pretending to carry out work or services, 3. information submitted by the employer that is relevant for benefits pursuant to Books II and III of the Social Code has been sufficiently substantiated, 4. foreign nationals <ol style="list-style-type: none"> a) in violation of the Residence Act, are being employed or commissioned, or have been employed or commissioned, or b) in violation of the Book III of the Social Code, are being employed or have been employed, 5. employees <ol style="list-style-type: none"> a) are being, or have been, supplied or leased without the permit required under the Act on Temporary Agency Work, b) are being, or have been, supplied or leased in violation of the provisions set out in the Act on Temporary Agency Work, or c) are being, or have been, supplied or leased in violation of the Act to Secure Workers’ Rights in the Meat Industry, 6. the working conditions pursuant to the Minimum Wage Act, the Posted Workers Act and the Act on Temporary Agency Work, in combination with a statutory instrument pursuant to the Act on Temporary Agency Work, are being or have been observed, 7. workers are being or have been employed under exploitative working conditions, 8. labour is being or has been offered, or demand is being or has been created for labour, in a public space in violation of the Act to Secure Workers’ Rights in the meat industry, <ol style="list-style-type: none"> a) a business or an overarching organisation where slaughtering is carried out, carcasses are cut up or meat is processed, is not or has not been operated by a single owner, b) another party is or has been wholly or partially allowed to use a business or an overarching organisation where slaughtering is carried out, carcasses are cut up or meat is processed, or c) persons are working or have worked in the area of slaughter, including the cutting up of carcasses, and in the area of meat processing.

Table a3. Definition of the notion of ‘inspection’ (continued)

Spain	France	Italy	Lithuania
<p>An inspection occurs whenever one or more inspectors carry out a singular and distinct action to determine compliance with labour/social security legislation, whether proactively or reactively. Inspections can include among others visits of the workplace, the provision of preventive or advisory services, document checks, etc.</p>	<p>Investigation and findings: Labour inspectors carry out investigations in the field, observe infringements and draw up detailed reports. These reports may lead to formal notices (procès-verbal) to the employer to rectify the situation. Formal notices: If infringements are found, the employer may be given formal notice to comply with the legislation. In the event of persistent non-compliance, more severe penalties may be applied. The labour inspectorate uses a combination of prior declarations, unannounced visits, documentary checks and inter-institutional collaboration to monitor posted workers.</p>	<p>Inspections are aimed at monitoring: the compliance with legislation regarding civil and social rights of employees, protection of employment relationships and social legislation; the application of national collective labour agreements, as well as the provincial and/or company agreements; the compliance with social security and welfare benefits for workers. In the case of postings, the inspection verifies the compliance with additional rules, such as those on the administrative requirements (e.g., PDs A1; prior notification...) and the genuinity of the posting. A workplace inspection may be triggered due to: planned control operations over a sector or territory; request for intervention by the worker or the union representing him (e.g. for illegal work); autonomous initiative of the inspection office. If the verification is requested by the worker or the union, the Inspectorate must attempt a conciliation between the company and the employee before carrying out the verification. If an agreement is reached, the inspection does not take place. The inspection takes place without an attempt at conciliation when the requests for intervention have criminal relevance, affect other workers, concern illegal/irregular activities that are particularly widespread in the area or concern only contributory, social security and insurance issues. Regarding the posting of workers, in 2019 INL published Linee guida per l’attività ispettiva in materia di distacco transnazionale (Guidelines for inspection activities regarding transnational posting). This document clearly indicates a series of parameters to be checked to verify if the posting is “not genuine” (“non genuino”, i.e., irregular/fraudulent) and the companies are using fraudulent forms of employment. The inspection can include the acquisition of workers’ declarations to verify whether: they have worked only and exclusively in Italy; they have residence in Italy, have Italian documents and their family is in Italy; they did not carry out any work activity in the foreign country either before or after their employment in Italy; the coincidence - or almost - between the date of hiring and the date of posting. Additional parameters to be monitored and controlled are related to the use of posting in subcontracting chains, the gangmaster system, the agency work, the irregular employment.</p>	<p>Lithuanian legislation does not provide for legal or administrative definition of ‘inspection’ itself. The procedure, for example, for conducting SLI inspections is laid down in the SLIL and the Regulations of SLI approved by the MSSL.</p> <p>The Law on Public Administration (LPA) defines two legal concepts related to "inspection", which are used in virtually all public administration, namely:</p> <ul style="list-style-type: none"> - Inspection of the activities of an economic entity - actions of public administration entities regulated by law, which inspect the activity of an economic entity Article 2 (15); - Supervision of the activities of an economic entity - actions of public administration bodies in monitoring compliance with legislation and administrative decisions Article 2 (16). <p>Inspection is one of the ways of supervision of the activities of economic operators.</p> <p>According to Article 18 (1) of the LPA, the supervision of the implementation of and compliance with legislation and administrative decisions includes: (1) monitoring of the implementation of and compliance with legal activities and administrative decisions by public administration entities; (2) checks of the implementation of and compliance with legal acts and administrative decisions by public administration entities; (3) the evaluation by public administration bodies of information on the implementation of, and compliance with, regulatory activities and administrative decisions; (4) the imposition of sanctions by public administration bodies for infringements of the implementation of and compliance with legal acts and administrative decisions.</p> <p>Supervision of the implementation of and compliance with legislation and administrative decisions is only considered public administration if it is ensured by the power conferred on the executing public administration body to issue legally binding instructions to subordinates (Article 18 (2) of the LPA). Supervision of the implementation of and compliance with legislation and administrative decisions shall be carried out only within the framework of the powers conferred on the supervising public administration bodies in accordance with the procedure laid down in this Law (Article 18 (3) of the LPA). Checks of economic entity can be planned or unplanned. The primary purpose of planned ones is to assess information on economic entity and to provide methodological IT assistance (Article 33 (1) of the LPA).</p>

Table a3. Definition of the notion of ‘inspection’ (continued)

The Netherlands	Poland	Slovenia	Slovakia
<p>NLA: A NLA inspection is a company visit by a NLA inspector aimed at checking compliance with laws and regulations. When violations are found, enforcement is carried out according to the enforcement policy. This concerns an initial inspection or a reinspection. It does not involve providing information or conducting monitoring studies.</p> <p>Belastingdienst: A ‘inspection’ of the Tax and Customs Administration can be a company visit, an on-site observation or an audit. During a company visit, information is collected to gain insight into the operations and administration of the company. An on-site observation aims to gain insight into the daily operations of a company (such as the availability of staff, the identity of the personnel and the administration). An audit is an audit of the declarations and administration of the company.</p> <p>IND: The IND performs no inspections related to the enforcement of the posting rules in the Netherlands (WagwEU). It only uses data from the notification portal to verify certain information provided in applications for residence permits for posted third-country nationals who want to stay longer than three months. In 2023, the IND has issued 1 140 residence permits for posted third-country nationals (and for whom certain information has been verified based on data from the notification portal).</p>	<p><u>ZUS</u>: there exists no universal definition of the notion of ‘inspection’ (‘control’) in the present area – rather, there exist a set of conditions that such notion should entail. As part of the inspection (control), the Social Insurance Institution (ZUS) may verify whether all employees have been declared for social insurance. As a rule, control proceedings are initiated by ZUS ex officio. It is possible, but rare in practice, to initiate these proceedings at the request of the insured or the payer of social insurance contributions. When an inspection takes place, ZUS checks whether the posted workers have a PD A1. If they do, then it verifies the correctness of the data reported when applying for the PD A1.</p> <p><u>PIP</u>: there exists no universal definition of the notion of ‘inspection’ (‘control’) in the present area – rather, there exist a set of conditions that such notion should entail. PIP inspections are used to check whether the employer posting workers to the territory of Poland has fulfilled its obligations. Inspections (controls) may also be conducted with respect to a user undertaking making use of a temporary worker posted to the territory of Poland by a temporary employment agency or a placement agency and include verification. The State Labour Inspection conducts inspections of the correctness of the process of posting workers to the territory of Poland in situations where there are doubts as to whether a given employee may be considered a posted worker.</p>	<p>Inspection control is control over the implementation and respect of the laws and other regulations. (Inspection Act ZIN, Article 2)</p>	<p>Labour inspection conducted by a labour inspector in accordance with the Section 2 par. 1 letter a) of the Act No. 125/2006 Coll. Is the supervision over observance of:</p> <ol style="list-style-type: none"> 1. labour-law provisions governing labour-law relations, in particular their establishment, change and termination, wage and working conditions of employees, including the working conditions for women, adolescents, domestic employees, persons with disability and persons under the age of 15, and collective bargaining, 2. legal provisions regulating civil service relations, 3. legal provisions and other provisions for securing occupational health and safety protection including provisions governing factors of the working environment, 4. legal provisions governing prohibition of illegal work and illegal employment; 5. obligations arising from collective agreements, 6. special regulation in the scope of the employer’s obligation to conclude an employment contract and pay contributions for supplementary pension scheme for an employee performing work classified by the state administration body in the public healthcare section into categories 3 and 4 pursuant to a special regulation, and for an employee, who performs the work of a dance artist or a musician performing the profession of a player on a wind instrument, 7. special regulation, which provides for the posting of employees for the performance of works in the provision of services, by the employer.

Source Questionnaires filled out by national experts

Table a4. Definition of the notion of ‘infringement’

Austria	Belgium	Germany	Spain	France	Italy
<p>With reference to infringement data provided for Austria in this report, an infringement is any violation of the rules as set out in the Law against Wage and Social Dumping (Lohn- und Sozialdumping-Bekämpfungsgesetz – LSD-BG).</p>	<p>A positive investigation is an investigation whose outcome consists, in part or in whole, of (proposals for) one or more subsequent steps, as a result of having established one or more infringements during one or more positive controls that took place within the framework of this investigation.</p>	<p>In the AEntG, the term infringement (Verstoss) is only mentioned but not defined in §27 that is related to the content of outgoing requests to competent authorities in the sending member states. However, §23 AEntG defines who is deemed to have committed a “regulatory offence”. Additionally, an entrepreneur is also liable if they knowingly or negligently contract services to another entrepreneur or subcontractor who fails to meet legal working condition standards or make required contributions on time.</p>	<p>An infringement is any violation of the rules as set out in the labour/social security legislation.</p>		<p>An infringement is any violation of the rules as set out in the legislation regarding civil and social rights of employees, protection of employment relationships and social legislation. Additionally, infringements can regard violations of the application of national collective labour agreements, as well as the provincial and/or company agreements (in the case of posting of workers, they are the reference for defining the salary) and the compliance with social security and welfare benefits for workers. In the case of posting, the infringements can also include the administrative obligations and the genuinity of posting.</p>
Lithuania	The Netherlands	Poland	Slovenia	Slovakia	
<p>As the main sanctions relevant to the topic at hand are provided for in the CAO, we refer to the concepts set out in this Code (Article 5 "Administrative offence"):</p> <ol style="list-style-type: none"> 1. An administrative offence is a dangerous act (act or omission) committed by the perpetrator, prohibited by this Code, which meets the characteristics of an administrative offence for which an administrative penalty is provided. 2. A person shall be held administratively liable under this Code for an offence which meets the elements of an administrative offence provided for in this Code, provided that the offence does not give rise to criminal liability. 	<p>NLA: An infringement occurs when companies/employers do not comply with the various laws, decrees and regulations in the field of labour (such as the Minimum Wage Act, the Working Conditions Act and the Working Hours Act).</p>	<p>There is no universal definition of the notion of ‘infringement’ in the social security and labour law area. Rather, there exists a set of conditions that such notion should entail.</p>	<p>Not specifically stated in the Acts governing inspection, but generally referring to any violation of the applicable rules.</p>		

* When a cell is empty, it means that no response was provided by the Member States in the questionnaire.
 Source Questionnaires filled out by national experts

Table a5. Definition of the notion of ‘sanction’

Austria	Belgium	Germany	Spain	France
<p>Regarding the data on sanctions provided in this report for Austria, a sanction is defined as a penalty <u>requested</u> because of a detected infringement (e.g., fine, work stoppage, withdrawal of license, closure, imprisonment, etc.).</p>	<p>Several types of sanctions:</p> <ul style="list-style-type: none"> • Warning: the social inspector establishes an offence. This is such that a warning (usually in writing) to proceed to regularisation within a certain period of time is sufficient. This regularisation will be followed up by the competent inspectorate. This warning is part of the social inspector's power of appreciation when he establishes an infringement. • Pro Justitia: communication of infringements by means of a 'report of finding of infringement' to the judicial authorities (usually the labour auditor, sometimes the public prosecutor). • Criminal record: notification of offences to the judicial authority (labour auditor, public prosecutor) in a form other than Pro Justitia. This form of follow-up is rare. • Other consequence: any other processing not limited to usual verification (e.g., follow-up of an investigation at the employer's headquarters, investigation report sent to a third service, etc.). 	<p>Sanctions could take different forms, from fines for criminal or regulatory unlawful action to withdrawal of licences and imprisonment. §23 AEntG states that “ in the cases referred to in subsection (1) no. 1 and subsection (2), a fine of up to 500,000 euros, in all other cases a fine of up to 30,000 euros, may be imposed for the regulatory offence.</p>	<p>Penalty imposed as a result of a detected infringement (e.g., fine, work stoppage, withdrawal of license, closure, imprisonment, etc.).</p>	<p>Legal consequence of an infringement detected by labour inspectors through the various means at their disposal. These infringements are recorded in official reports (procès-verbal). The facts established by the inspection are presumed to be certain until proven otherwise and may give rise to various types of penalties according to their gravity.</p> <p>Types of penalty:</p> <ul style="list-style-type: none"> - Simple warning: communication of an infringement without immediate criminal proceedings or administrative sanctions. - Improvement notice with a deadline: administrative decision requiring the employer to rectify an infringement as quickly as possible. - Administrative fines: up to € 4 000 per offence and per employee. - Administrative decision: decision to withdraw an apprentice or trainee, summons to the occupational physician, etc. - Suspension of work and/or activity: in the event of serious and imminent danger. - Interim proceedings before the courts: used to obtain a financial penalty order for the employer to put an end to an observed infringement. - Operating bans: repeat offenders may be temporarily banned from operating in France. - Reporting to the public prosecutor for criminal sanctions: for the most serious offences, including undeclared work.

Table a5. Definition of the notion of ‘sanction’ (continued)

Italy	Lithuania	The Netherlands	Poland	Slovenia	Slovakia
<p>The sanction is the penalty imposed as a result of a detected infringement (e.g., fine, work stoppage, withdrawal of license, closure, imprisonment, etc.). The applicable sanction regime is defined according to the terms of the legislation in force on labour, social contributions, taxation... In the case of posting of workers, the “Guidelines for inspection activities regarding transnational posting” (Linee guida per l’attività ispettiva in materia di distacco transnazionale, based on Legislative Decree 136/2016 of 2016 and published in 2019) and the INL “Guidelines on the sanction regime for undeclared work” (Maxisanzione per lavoro sommerso, published in 2022) provide specific indications for the sanctions to be applied in case of “not genuine” posting and the procedures to be applied in order to regularise the employment and working conditions of posted workers.</p>	<p>Article 23 (1) of the CAO establishes that a person who commits an administrative offence/breach of law may be subject to the following administrative penalties: 1) warning; 2) fine; 3) community service. Community service shall be imposed as an alternative administrative sanction to a fine or part of a fine in accordance with the procedure laid down in this Code (Article 23 (2) of the CAO).</p>	<p>NLA: Sanctions by the NLA include a mix of instruments such as warnings, fines and shutdowns. The NLA always confirms in writing which sanctions are imposed, what measures need to be taken, and within what timeframe the violation(s) must be rectified. The NLA checks through random inspections whether the required measures have been taken. If not, a stricter sanction is applied.</p>	<p><u>ZUS</u>: As a contribution payer, one is obliged to fulfil certain obligations under the law. One should therefore pay the contributions due on time for each calendar month.</p> <p>If one fails to fulfil your obligations, the Social Insurance Institution may apply sanctions and disciplinary measures against them stemming from the Social Insurance System Act (i.e., imposing a fine, charging interest for late payment, etc.) as well as sanctions and disciplinary measures stemming from other statutory regulations (i.e., filing a notice of suspicion of a social security offence, filing a motion to amend the entry in the National Court Register, etc.).</p> <p><u>PIP</u>: If the State Labour Inspection finds that a particular worker cannot be considered a posted worker and, in particular, that the appearance of posting has been unauthorisedly created:</p> <ul style="list-style-type: none"> - the employer posting that worker or a person acting on its behalf may be fined from PLN 1 000 to PLN 30 000. - the law in force in the country in which the posted worker is employed applies. This cannot, however, lead to the worker being subject to terms and conditions of employment less favourable than those applicable to employees posted in the territory of Poland. 		

* When a cell is empty, it means that no response was provided by the Member States in the questionnaire.
Source Questionnaires filled out by national experts

Table a6. Definition of the notion of ‘recovery’

Austria	Belgium	Germany	Spain	France
<p>‘Recovery’ is defined as a back payment paid.</p>	<p>Recovery of unpaid contributions:</p> <ul style="list-style-type: none"> • NSSO: Amounts of contributions for which a PD A1 withdrawal request has been submitted to the GOT Directorate (GrensOverschrijdende Tewerkstelling – Cross-border employment). This is an estimated amount of contributions as the withdrawal request may take some time. • NISSE: Contribution amounts for which a PD A1 withdrawal request has been submitted. This is an estimated amount of contributions as the withdrawal request may take some time. <p>Rectifications rights/duties of citizens: TSW: This includes regularisations effectively imposed on foreign companies (all wages, allowances, and holiday pay). Work of the Directorates of Posted Workers and Transport. This also includes the Pro Justitia amounts.</p>	<p>Recovery in a sense of redress – for example –unpaid wage claims or other financial claims of workers have to be sued for payment by individual employees. This of course in practice is very difficult. To date, there is no collective right for legal action, e.g., initiated by trade unions. Here, an answer of the German government to a parliamentary inquiry of a MP is quite telling: “Employees who have been suffered from unlawful practice, are not informed by the Financial Investigation Office about violations of the statutory minimum wage, sector minimum wages under the Posted Workers Act (AEntG) and wage floors under the Temporary Employment Act (AÜG) in their company. The enforcement of claims under individual labour law are of a civil law nature and may have to be enforced as civil law disputes in the labour courts.”</p>	<p>Recovery is carried out by the Autonomous Communities for labour offences and by the Tesorería de la Seguridad Social (Social Security Fund in charge of insurance and contribution payment) for infringements and social security claims on this matter. The OEITSS does not perform this function and specific data from other bodies related to labour inspection actions are not available.</p>	

Table a6. Definition of the notion of 'recovery' (continued)

Italy	Lithuania	The Netherlands	Poland	Slovenia	Slovakia
<p>In case of incoming posted workers, the recovery of financial sanctions is not in charge of the Italian public institutions, unless it is proven that the posting is “not genuine” and the PD A1 is cancelled, thus resulting a case of undeclared work. In case of outgoing posted workers, the employer receives a debit notice, which has the value of an enforceable title for recovery and can appeal or pay the due contributions within 30 days.</p> <p>The recovery of un(der)paid remunerations can take place in various ways:</p> <ul style="list-style-type: none"> - through a conciliation between employer and worker with the mediation of the Territorial Labor Inspectorate (ITL) or the trade unions. - In case that the labour inspectorate initiates a verification procedure that recognizes a violation by the employer, the report issued by the inspectorate has the value of an enforcement order and if the employer continues not to pay, seizure can be used. - Finally, the worker can initiate a civil action in court to request the issuance of an injunction. If the employer does not pay or does not appeal within 40 days, the assets will be seized. 	<p>No legal definition. Article 676 of the COA "Enforcement of penalty (fine) orders" provides that if the offender fails to pay the fine within the time limit set out in Article 675(2) of this Code, or if a part of the fine is not paid on time in accordance with the procedure for staggering its payment, and the payment of the fine in instalments is interrupted, the penalty order shall be submitted to the enforcement procedure (Article 676 (1)). The fine shall be enforced by bailiffs in accordance with the procedure laid down in the Code of Civil Procedure (Article 676 (2)).</p>	<p>NLA: If a company has been fined, the payment must be made into the account of the Central Fine Collection Agency (CJIB) before the due date. If the fine amount has not been posted to the CJIB's account by the due date, the company will receive a demand. The fine will then be increased by the costs of the demand. If the fine has not yet been paid before the new due date after a demand, the fine will be collected by writ of execution. The CJIB will enlist a bailiff's services. The costs thereof will be at the expense of the company. The full remaining fine amount will then become due immediately and any right to payment in instalments will lapse.</p>			

* When a cell is empty, it means that no response was provided by the Member States in the questionnaire.
 Source Questionnaires filled out by national experts

Table a7. Non-exhaustive overview of infringements related to intra-EU posting¹¹⁹

Labour law aspects	Social security law aspects	
Mainly related to the application of the Posting of Workers Directive and the Enforcement Directive	Mainly related to the application of the Coordination Regulations	
Bogus self-employment: workers being temporarily posted under the false status of being self-employed	Circumventing the conditions as defined by Art. 12 BR by Art. 13 BR (active in two or more Member States)	
The posting undertaking does not genuinely perform substantial activities in the sending country	Bogus self-employment: workers temporarily posted under the false status of being self-employed	
The posted worker does not temporarily carry out his or her work in the host country	Not respecting the posting conditions, related to: <ul style="list-style-type: none"> • the 24-month time limit • the non-replacement condition • the requirement of a substantial connection with the sending country (at least one month) • the requirement of a direct employment relationship between the posted worker and the sending employer • the requirement that workers are attached to a posting undertaking that ‘normally carries out its activities’ in the sending country 	
Not respecting the terms and conditions of employment, related to: <ul style="list-style-type: none"> • the payment of the remuneration, including overtime rates; • the payment of allowances or reimbursement of expenditure to cover travel, board, and lodging expenses; • the payment of minimum paid annual leave; • the maximum work periods and minimum rest periods; • health, safety, and hygiene at work; • the conditions of hiring-out of workers; • the conditions of workers’ accommodation; • long-term posting: additional terms and conditions of employment. 		Not paying the correct level of social security contributions
		The use of false Portable Documents A1 to evade the posting conditions
		Not having a Portable Document A1
		Unauthorised temporary work agencies
		Posted TCNs without a valid residence/work permit
		Labour exploitation
Not respecting the ‘administrative’ requirements, related to: <ul style="list-style-type: none"> • the obligation for a service provider established in another Member State to make a simple declaration • the obligation to keep or make available the employment contract and other documents, to deliver these documents within a reasonable period of time, to provide a translation of these documents • the obligation to designate a person to liaise with the competent authorities in the host country in which the services are provided 		

Source De Wispelaere et al. (2022)

¹¹⁹ Infringements may, of course, also apply to other branches of law, such as migration law. Think for instance about the posting of TCNs from one Member State to another without these persons having a valid residence or work permit. Setting up a letterbox company is another example where several aspects of the law may be violated. Finally, infringements related to intra-EU posting might in some cases be linked to criminal activities.

Non-compliance with the social security law aspects of intra-EU posting

For the proper use of posting under the Coordination Regulations several conditions must be fulfilled cumulatively: 1) the employer must normally carry out its activities in the Member State of establishment; 2) there must be a direct relationship between the posting employer and the posted worker; 3) prior to being posted, the posted worker must be affiliated to the legislation of the Member State in which their employer is established; 4) the posting is of a temporary nature (not exceeding 24 months); and 5) the posted worker is not sent to replace another posted worker. The fact that a posting undertaking should normally carry out activities in the Member State of establishment (and, hence, is not a ‘letterbox company’) might be one of the posting conditions most prone to infringements. Setting up a (virtual) company is very easy in several Member States and may allow companies to take advantage of the low social security costs in the country of establishment (i.e. ‘law/regime/forum shopping’) without performing any activities there. This type of constructions seems to be very common in road freight transport. Despite the fact that criteria exist to assess such situations, this obviously remains a difficult and delicate exercise in practice. Regarding the previous affiliation requirement to the legislation of the ‘sending’ Member State, the Administrative Commission’s Decision provides that affiliation of at least one month can be considered as meeting the requirement, while shorter periods require a case-by-case evaluation taking into account all the other factors involved. The risk of non-compliance with this condition seems to be particularly high when it comes to posted TCNs. They enter a Member State, often on the basis of a bilateral agreement, and are then posted to another Member State (almost immediately). So, in reality, they have no connection with either the employer or the sending Member State. However, Article 12 of Regulation 883/2004 does not preclude that a person is recruited with a view to being posted to another Member State. Furthermore, the question arises whether the non-replacement condition is applied in practice by both the posting undertaking and the ‘client’. In order to prove that a posted worker or a posted self-employed person remains subject to the social security system of the Member State of origin a Portable Document A1 can be requested by the posting undertaking or the posted self-employed person. The current legal framework provides that the employer or the self-employed person must inform the competent authorities about their planned transnational activities, whenever possible before these activities take place (this also applies to ‘business trips’). Subsequently, after verification of several posting conditions (see above), a PD A1 must be provided by the competent authorities. In practice, authorities are not always informed about the posting activities: not in advance, not during nor after the posting has taken place. Furthermore, there is no provision defining the entrance gate to a PD A1. Consequently, it is possible that employers request a PD A1 under Article 13 of Regulation 883/2004 while it should have been under Article 12 of Regulation 883/2004. Finally, there might be a failure to pay social security contributions on the mostly (much) higher wage applicable in the host Member State (see below).

Non-compliance with the labour law aspects of intra-EU posting

With regard to the application of the Posting of Workers Directive, infringements such as bogus self-employment and failure to respect the terms and conditions of employment may occur (sometimes even leading to labour exploitation. For instance, large differences between the wage applicable in the receiving Member States compared to that applicable in the sending Member State (i.e., low to high movements) make it likely that posted workers (are forced to) agree with a wage below the wage that should be paid. Underpayment may occur under various forms and is often not limited to merely paying less than the wages one is entitled to. For example, there is a risk that for the same monthly remuneration posted workers have to work (many) more hours compared to local workers employed at the same workplace. OSH legislation, and (non-)compliance with it, is equally relevant when discussing infringements related to intra-EU posting. Infringements related to the application of the Posting of Workers Directive may also include not respecting ‘administrative obligations’ such as not reporting the activities in the prior declaration tools of the recipient Member State.

Table a8. Types of infringements detected during inspections related to the enforcement of the posting rules, 2023

Types of infringements found	
AT	<p>Financial Police requested fines for</p> <ul style="list-style-type: none"> • infringements related to not making a correct prior notification, • failure to provide the necessary notification documents (PD A1; ZKO form; proof of official authorisation, if required), • failure to provide wage documentation during inspections, • failure to provide copies of notification documents and/or wage documentation upon request, • the provision of services despite prohibition to do so. <p>LSDB Statistics</p> <ul style="list-style-type: none"> • for failure to notify posting or change to posting in advance (80 BUAK), • complaints documentation upon inspection (72 BUAK), • related to thwarting an inspection of wages (84 total), • for failing to present wage documentation (142 BUAK), • For underpaying workers (259 BUAK, 274 total).
BE	<p>The most common infringements found are the following:</p> <ul style="list-style-type: none"> • NSSO: electronic attendance registration (checkin@work)¹²⁰, Regulation (EC) 883/2004, LIMOSA¹²¹ • TSW: Dimona¹²², preparation of individual account, payment wages • NISSE: unlawful posting/simultaneous employment (for investigations social dumping), LIMOSA (for ePVs – police reports).
DE	<p><u>Number of initiated administrative offense proceedings (2022)</u></p> <ul style="list-style-type: none"> • § 23 (1) Nr. 1 AEntG: Minimum wage for temporary workers 52 • § 23 (1) Nr. 1 AEntG: Minimum wage / (other) working conditions 1 263 • § 23 (1) Nr. 1 AEntG: ULAK (Holiday and wage equalisation fund for the construction industry) 73 • § 23 (1) Nr. 2 AEntG (Cooperation in inspection) 0 • § 23 (1) Nr. 4 AEntG (Data transmission) 15 • § 23 (1) Nr. 5, 6, 7 AEntG: Registration/change notification/insurance 348 • § 23 (1) Nr. 8, 9 AEntG: obligation to keep records, readiness of documents 1 197 <p>§ 23 (2) AEntG: Indirect infringement 13</p>
ES	<p>The 54 infringements concerned</p> <ul style="list-style-type: none"> • 29 posting declarations • 15 labour conditions • 10 undeclared work
LT	<p>By the SLI 2022 (10 infringements)</p> <ul style="list-style-type: none"> • in 2 cases breaches in the recording of working time and rest time of posted workers were found. • in 7 cases breaches were detected in companies related to non-declaration or late declaration of posted workers, such as failure to submit work permit notifications for foreigners. • in 1 case a breach was detected as the employer did not have and could not provide to the inspector documents relating to the posted worker. <p>By the TSA in 2023:</p> <ul style="list-style-type: none"> • 7 infringements detected by the TSA. All of them were related to the breach of the obligation to have a declaration (Article 450 (5) of the CAO).

¹²⁰ Checkinatwork is the attendance registration for construction sites exceeding a certain threshold. This requirement started from 1 April 2014. The threshold amounted to € 800 000 for works which commenced from 1 April 2014 until 29 February 2016, and € 500 000 for works which commenced after 29 February 2016. This attendance registration should be done at the start of the works or during the works.

¹²¹ The Belgian national declaration tool for incoming posted persons.

¹²² Dimona (Déclaration Immédiate/Onmiddellijke Aangifte) is the electronic message by which the employer declares every entry and exit of an employee to the NSSO.

Types of infringements found	
PL	<p><u>ZUS:</u> In the course of inspections, irregularities have been revealed with regard to, among others:</p> <ul style="list-style-type: none"> • posting of workers by payers of contributions who do not meet the conditions set out in Regulation 883/2004. • incorrect assessment of the basis of assessment for pension and disability insurance contributions for employed workers posted to perform work in the territory of another EU Member State. • posting of workers to another EU Member State without a valid Portable Document A1. • In 2023, irregularities with regard to the enforcement of the rules on the posting of workers were identified in 123 inspections of the payers of contributions. <p><u>PIP:</u> <i>Outgoing postings</i></p> <ul style="list-style-type: none"> • Controls in which the genuineness of posting of workers from Poland was examined, showed that a total of 457 persons (in 2022 - 361), including 310 foreigners (in 2022 - 235), did not meet the conditions for recognition as a posted worker from Poland. • The irregularities found mainly concerned: <ul style="list-style-type: none"> ○ the use of the institution of ‘business trips’ in order to circumvent (where there were no grounds for such a trip, naturally) the host Member States’s regulations on remuneration for work during the period of posting; ○ establishing remuneration for work during the period of posting at a lower amount than the remuneration in force according to the legislation of the host Member State; ○ failing to use written confirmation of changes to the terms and conditions of employment - amending agreements or amending notices. <p>Indeed, despite the amendment (effective from 24 April 2023) of the provisions of the Labour Code and the Act on the posting of workers in the framework of the provision of services Act regarding supplementary information to posted workers on the terms and conditions of employment during the period of posting, the inspections revealed that such information was not provided to posted workers.</p> • Inspection (control) activities covering the issues of posting of workers from Poland, carried out in 2023, confirmed the trend observed for several years, consisting in the bogus posting of third-country nationals by Polish entrepreneurs to other EU Member States. <p><i>Incoming postings</i></p> <ul style="list-style-type: none"> • Within the framework of the inspections (controls) of foreign employers, the infringement of the legal provisions were disclosed with regards to 75% of the inspections which were carried out (in 2022 this percentage amounted to 59%). • The inspections revealed infringements of, <i>inter alia</i>, the provisions of the Act of 10 June 2016 on the posting of workers in the framework of the provision of services related to the observance of the obligations imposed by this Act by foreign employers or the provision of conditions of employment to workers posted to Poland that are no less favourable than those resulting from the provisions of the (Polish) Labour Code. Irregularities regarded <i>inter alia</i>: <ul style="list-style-type: none"> ○ appointment of a person authorised to liaise with the State Labour Inspection - 34 inspections; ○ failure to submit to the State Labour Inspection a declaration on posting of workers at the latest on the day of commencement of service provision - 30 inspections; ○ health and safety at work within the scope of the admission of posted workers to work: <ul style="list-style-type: none"> - without health and safety training - 25 inspections; - without medical examinations - 21 inspections; ○ keeping documents on the territory of Poland - 24 inspections; ○ payment of remuneration along with an overtime bonus - 20 inspections; ○ working time, <i>inter alia</i>, with regard to overtime work - 18 inspections; ○ working time, <i>inter alia</i>, with regard to failure to ensure an average five-day working week in the adopted settlement period, failure to ensure daily rest, negligent keeping of records of working time - 14 inspections; ○ annual leave - 11 inspections; ○ making documents available - 11 inspections; ○ notification to the Inspection of any change in the information contained in the declaration on posting of workers - 10 inspections; ○ translation of documents into Polish - 7 inspections; ○ health and safety at work within the scope of lack of occupational risk assessment - 6 inspections; failure to appoint a coordinator of occupational health and safety - 2 inspections; ○ compliant posting of workers to the territory of the Republic of Poland - 5 inspections. • Controls conducted with regard to third-country nationals posted to Poland revealed cases of illegal entrusting of work in Poland to them, which consisted in allowing them to work without a required work permit or in failure to provide them with work conditions specified in the work permit • Sometimes the managers or partners of companies registered in Poland are also foreigners - citizens of third countries, with whom contact is difficult or impossible, and the companies are registered in so-called virtual offices and are often ‘letterbox companies’. • As part of their inspections concerning the posting of workers to Poland, labour inspectors found 5 cases of bogus posting.
SI	<p>1) ZZSDT – Employment, Self-Employment and Work of Foreigners Act</p> <ul style="list-style-type: none"> - 6 violations of Article 36 (Paragraph 2): foreign employer sent posted workers to provide unpermitted services (relating to the delivery of certain goods and servicing).

Types of infringements found	
	<ul style="list-style-type: none"> - 3 violations of Article 36 (Paragraph 3): foreign employer did not notify the authorities about the intention to provide services in SI. - 6 violations of Article 45 (Paragraph 2): foreign worker did not provide required documentation on site of the inspection. - 1 violation of Article 45 (Paragraph 4): foreign employer did not provide the required documentation to the inspector. <p>2) ZČmIS and ZČmIS-1 (the latter came into force on 18 April 2023) – Transnational Provision of Services Act The inspectorate identified 68 violations concerning posting to SI:</p> <ul style="list-style-type: none"> - 39 violations of Article 12 (Paragraph 1) of ZČmIS: foreign employers provided services in Slovenia despite not meeting the required conditions. - 15 violations of Article 14 (Paragraph 1) of ZČmIS: foreign employers did not notify the authorities about the intention to provide services in SI or the services provided did not match the notification. - 2 violations of Article 14 (Paragraph 3) of ZČmIS: foreign employer did not submit the required documentation. - 4 violations of Article 14 (Paragraph 1) of ZČmIS-1: foreign employers provided services despite not possessing the PD A1 for the posted workers. - 3 violations of Article 16 (Paragraph 1) of ZČmIS-1: foreign employer did not notify the authorities about their intention to provide services in SI, the notification was incomplete, or the provided service did not match the notification. - 5 violations of Article 16 (Paragraph 8) of ZČmIS-1: foreign employers did not provide the required documentation and/or a translation of the documentation. <p>3) ZDR-1 – Employment Relations Act The inspectorate identified 72 violations concerning the posting of workers from Slovenia:</p> <ul style="list-style-type: none"> - 64 violations of the amended Article 209: the employment contract for a posted worker did not include all compulsory information.¹²³ - 8 violations of Article 210 (Paragraph 2): posted workers providing services in SI did not have the same rights as exercised by the nationals according to the applicable Slovenian laws and collective agreements.
SK	<p>The 29 infringements concerned</p> <ul style="list-style-type: none"> • 3: Upon request, the hosting employer is obliged to provide the supplier of services with the necessary information without undue delay to enable the supplier of services to check whether the hosting employer provided the wage payable to the hosting employee • 3: The working conditions and conditions of employment of a home employee shall be governed by the law of the country of which the home employee is posted. • 14: The employment relations in the course of an intra-company transfer – the wage conditions shall be at least as favourable as those of a comparable employee of the employer to whom employees are transferred • 9: Notification obligation – the posting employer shall notify the National Labour Inspectorate about the posting of their employees on the day of the commencement of posting at the latest.

* Answers provided to the question “Please provide, by enforcement body, statistics on the type of infringements detected during inspections related to the enforcement of the posting rules in your country.”

Source Questionnaires filled out by national experts

¹²³ This new provision requires the employers to include the following additional information into work contracts: the duration of work abroad; holidays and work-free days; minimum annual leave; the amount of salary and the currency in which it shall be paid; additional insurance for health services abroad; other income in cash or in kind to which the worker shall be entitled during his work abroad; the manner of ensuring and exercising rights related to payment for work and other benefits which are provided in a different manner under the regulations of the state in which the work is performed, but this must be within the scope provided in this Act or more favourable to the worker.

Table a9. Sanctions imposed as result of the infringements detected during inspections related to the enforcement of the posting rules, 2023

	Types of sanctions imposed
AT ¹²⁴	<p><u>Financial Police</u></p> <ul style="list-style-type: none"> • Central Co-Ordinating Agency of the Federal Ministry of Finance notification according to § 19 LSD-BG as amended € 1 394 600.00. • Obligations to retain reporting documents according to § 21 LSD-BG as amended (including Transport and 48-hour posting) € 829 350.00. • Transport company - provision of documents according to § 21a LSD-BG in conjunction with § 26a para. 1 item 3 LSD-BG € 71 500.00. • Driver - retention of documents according to § 21a LSD-BG in conjunction with § 26a para. 1 item 3 LSD-BG € 700.00. • Retention/provision of payroll documents according to § 22 LSD-BG as amended by Federal Law Gazette I. (including Transport and 48-hour posting) € 1 142 900.00. • Failure to submit documents according to § 12 para. 1 item 3 and 4 LSD-BG as amended € 771 000.00. • Internal Market Information System posting notification/change notification according to § 19a LSD-BG in connection with § 26a para. 1 items 1 and 2 LSD-BG € 145 750.00. • Transport company - failure to submit documents according to § 12 para. 1 items 5 or 6 LSD-BG in conjunction with § 27a LSD-BG € 17 000.00. • Total € 4 372 800.00 <p><u>LSDB Statistics</u></p> <ul style="list-style-type: none"> • For failure to notify posting or change to posting in advance € 0 BUAk, € 0 BUAk & FP, € 0 total. • For failing to present prior notification documentation upon inspection € 92 750 BUAk, € 0 BUAk & FP, € 92 750 total. • Related to thwarting an inspection of wages € 143 000 total. • For failing to present wage documentation € 276 000 BUAk, € 0 BUAk & FP, € 276 000 total. • For underpaying workers € 2 206 100 BUAk & FP, € 2 206 100 total. • Total € 2 717 850
BE	<p><u>NSSO</u></p> <ul style="list-style-type: none"> • Provide information and advice 272 • Follow up criminal record 21 • Transfer to another directorate 74 • Transfer to an external service 86 • Pro Justitia drafted 498 • Pro Justitia/sentence report by other service 118 • Regularisation 311 • Penalty report 314 • Warning 313 • Total 2 007
DE	<p><u>(Warning) fines, recovery and forfeiture amounts (2022)</u></p> <ul style="list-style-type: none"> • § 23 (1) Nr. 1 AEntG: Minimum wage for temporary workers € 276 337 • § 23 (1) Nr. 1 AEntG: Minimum wage /(other) working conditions € 5 575 811 • § 23 (1) Nr. 1 AEntG: ULAK (Holiday and wage equalisation fund for the construction industry) € 201 039 • § 23 (1) Nr. 2 AEntG : Cooperation in inspection € 5 500 • § 23 (1) Nr. 4 AEntG : Data transmission € 3 500 • § 23 (1) Nr. 5, 6, 7 AEntG: Registration/change notification/insurance € 133.313 • § 23 (1) Nr. 8 AEntG: obligation to keep records € 428 696 • § 23 (1) Nr. 9 AEntG: readiness of documents € 8 775 • § 23 (1) Nr. 8, 9 AEntG: obligation to keep records, readiness of documents EntG € 51 545 • § 23 (2) AEntG: Indirect infringement € 3 755

¹²⁴ Statistics for Austria refer to sanctions *requested*, not imposed.

LT	<p><u>The sanctions imposed by the SLI in 2022:</u></p> <ul style="list-style-type: none"> • In 2 cases of breaches in the recording of working time and rest time of posted workers with fines of € 210 each case was imposed. • In 7 cases of breaches were of non-declaration or late declaration of posted workers, such as failure to submit work permit notifications for foreigners' fines of amount of € 180 - € 200 were imposed. • In 1 case breach was detected as employer did not have and could not provide to the inspector documents relating to the posted worker - a fine of € 120 (less than the above-mentioned fine) was imposed under Article 96(2) of the COA for violation of labour law and occupational safety and health legislation. Fines were imposed both to legal (enterprises) and physical persons (responsible persons in enterprises). <p><u>The sanctions imposed by the TSA in 2023:</u></p> <ul style="list-style-type: none"> • Article 450 (5) the CAO provides for administrative liability for the carriage of goods by road where drivers do not have a posting declaration, which carries a fine of between € 300 and € 500 for drivers and between € 400 and € 700 or the managers of legal persons or other persons in charge of the management of freight transport activities. In all cases, according to the information provided by the TSA, the drivers were fined between € 300 and € 500, or half of the minimum fine (an administrative instruction (in Lithuanian – "administracinis nurodymas") is imposed if the person has not already been sanctioned for such an offence in the 12 months preceding the offence, Chapter XXXI of the CAO).
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* Answers provided to the question "Please provide, by enforcement body, statistics on the sanctions imposed as result of the infringements detected during inspections related to the enforcement of the posting rules in your country."

Source Questionnaires filled out by Member States

POSTING.STAT



COORDINATOR

HIVA - Research Institute for Work and Society, KU Leuven (BE)

PARTNERS

CELSI - Central European Labour Studies Institute (SK)
COMILLAS - Comillas Pontifical University (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)

ASSOCIATED PARTNERS

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
SIIS - The Social Information and Investigation Service (BE)