



COUNTRY BRIEFING PAPER - PORTUGAL

POSTING OF WORKERS AND PORTUGAL

The main authorities involved in posting of workers in Portugal are:

- ACT - Autoridade para as Condições de Trabalho (Authority for Working Conditions), to whom companies should submit declarations on the workers posted to or from Portugal;
- The Social Security Institute, responsible for issuing the PD A1s.

According to the data available on A1 portable documents¹, 74,109 PDs A1 were issued to workers posted from Portugal in 2018, 70% under article 12 of the basic regulation. This amounts to 51,905 postings made by 27,519 individual workers. These are relatively low numbers in absolute terms, making up only 2.9% of all posting in the EU, yet they are above average in terms of the proportion of the workforce posted abroad, with 0.6% of the entire Portuguese workforce posted in 2018, compared to an EU average of 0.4%. This is even more evident concerning the construction sector, as 4.7% of all construction workers in Portugal were posted abroad in 2018, above the EU average of 3%. Most of these workers are sent to France (38%), Belgium (24%), Spain (16.5%) Netherlands (6%) and Germany (5.5%), in two main sectors: construction (53%) and industry (30%).

In terms of workers posted to Portugal, the numbers are much lower, with 28,964 postings to Portugal in 2018. This makes Portugal a net sender, with 22,941 more sent than received. However, this difference is becoming smaller, with more and more workers posted to Portugal over the years, while the number of workers posted from Portugal reached an eight-year low in 2018.

The vast majority of incoming workers are posted from Spain (62.5%), followed distantly by Germany (14%), France (10.5%), and Italy (5%). This means that posting both to and from Portugal are almost exclusively within EU-15 countries. It should be noted however that a significant number of Portuguese workers are posted to Non-EU countries such as Angola, Brazil and Mozambique². Thus, posting within the EU is only one aspect of posting in Portugal.

Little data is available on the sectors concerned by workers posted to Portugal in 2018, but the general trend seems to be that of highly qualified technicians³. This scarcity of data can be explained partly by the fact that the data related to national declarations has not yet been analysed, as employers posting to Portugal have only been obliged to report it to ACT since 2017 (Law 29/2017, 30th May).

In Portugal, sociodemographic data of posted workers (such as gender, age and education) are not collected.

¹ De Wispelaere F., De Smedt, L. and Pacolet, J. (2019) *Posting of workers: Report on A1 Portable Documents issued in 2018*. European Commission, Brussels.

² European Trade Union Institute (2020), *Posting of workers before national courts*, ETUI, Brussels, p. 201.

³ *Ibid.*, p. 200.

DEBATE ON POSTING OF WORKERS

The debate on posting of workers is not widespread in Portugal. News is only reported occasionally, usually at the time of European debates on posting or when something is exposed on the situation of Portuguese workers posted abroad.

ACT is the organisation that, beyond its inspection authority on posted workers, also disseminates information and promotes meetings on posting. The Portuguese labour inspectors, interviewed in the frame of the EU Post Lab project, have drawn special attention to the existence of various forms of abusive practices involving Portuguese workers posted abroad, highlighting issues related to wages, organisation of working time, non-existent absences, and illicit recruitment.

The Portuguese trade union General Confederation of Portuguese Workers (CGTP-IN) from time to time also reports on the working and living conditions of Portuguese posted workers, usually highlighting the non-fulfilment of promises made to workers at the time of hiring, for instance in terms of wages due and long working periods. CGTP has also accused that posting leads to discriminatory practices against Portuguese workers who get lower wages, higher working hours, and health and safety conditions below those legally established for national workers of the receiving Member State. The union often stresses the need for an increased monitoring of the situation of Portuguese posted workers.

The National Association of Public Freight Road Carriers (ANTRAM) is another body that stood out for its opposition to the revision of the Posting of Workers Directive in 2017. It brought the issue to Portuguese media and signed a joint statement with 14 organisations from different European Member-States against the proposed revision, which led to international road transport being excluded from the scope of the revised directive, pending further discussions.

The table below contains a summary of the various stakeholders' positions on both the benefits and drawbacks of posting of workers and cross-border information sharing. The information is drawn from interviews conducted in 2017 in the frame of the EU Post Lab project and from the organisations' websites.

TABLE 1. STAKEHOLDERS' POSITION ON POSTING OF WORKERS

Stakeholder	Benefits and drawbacks of posting of workers	Cross-border information sharing
<i>ACT (Portuguese Labour Authority)</i>	<p>Recognises the Free movement of workers as a basic right guaranteed by the Treaties of the European Union, and the Posting of Workers Directive as a means to protect workers' rights.</p> <p>Highlights the need to address posting not only from the perspective of host Member States, but also from that of sending Member States.</p> <p>Concerned by the working and living conditions of posted workers.</p> <p>One of the main constraints of posting is the difficulty of intervening in situations concerning workers who are abroad.</p>	<p>Actively involved in cross-border information sharing, particularly through the IMI [Internal Market Information System].</p> <p>The sharing of information on posting is more useful for host Member States.</p> <p>Raises issues on the protection of personal data.</p>
<i>AECOPS - Construction Employers' Organisation</i>	<p>Evaluates positively the mobility of companies and workers in the EU</p> <p>Considers that the notion of remuneration varies greatly among member-States, which is a drawback and requires the development of a common language among States.</p>	<p>The exchange of information between public authorities from different Member States would have to be within the limits of public authorities and public interest; such information should not be provided to third parties.</p>

<i>CGTP (General Confederation of Portuguese Workers)</i>	Accuses the Posting Directive of allowing worker exploitation and pressuring governments to cut labour rights; claims the need for posted workers to be aware of their rights; fights against precarious posted work. Argues that the best way to combat social dumping is to apply to posted workers the collective agreements of the host country	(no information)
<i>UGT (General Union of Workers)</i>	Claims that it is necessary to end the exploitation of posted workers, but also to implement full application of collective bargaining and the portability of social rights, so that the freedom of movement of workers is a reality fully associated with justice and dignity of living and working conditions.	(no information)
<i>Construction Union</i>	Often reports on gangmasters recruiting posted workers illegally and even cases of “modern slavery”	(no information)
<i>ANTRAM (National Transports Association)</i>	Has firmly opposed the inclusion of the transport sector in the Posting Directive, as per the new Mobility Package, bringing the issue to public discussion in Portugal and also jointly with organisations from other Member States.	(no information)
<i>CIP (Business Confederation of Portugal)</i>	Has opposed the revision of the Posted Workers Directive, arguing that it would create a framework that undermines economic growth and job creation.	(no information)
<i>PS (centre left political party)</i>	Has expressed its special concern for the effective protection of workers rights, particularly within subcontracting chains; has approved a mechanism of joint and several liability “solidarity responsibility”) through which the employer shall be responsible for any net arrears due to the posted worker.	Favourable to cross-border information sharing
<i>PSD (centre right political party)</i>	In favour for equal pay for equal work.	(no information)
<i>BE (left political party)</i>	Claims a contradiction between neoliberal European integration and the ability of European democracies to ensure fulfilment of civil, political and social rights of peoples and workers	(no information)
<i>PCP (communist party)</i>	Argues for the need of the EU to take a firmer position against the exploitation of posted workers	(no information)

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