

Posted Workers

The EU has adopted rules to protect workers on temporary assignments within the EU. The aim of these rules is to provide a standard set of conditions that apply to posted workers within the EU.

Obligations

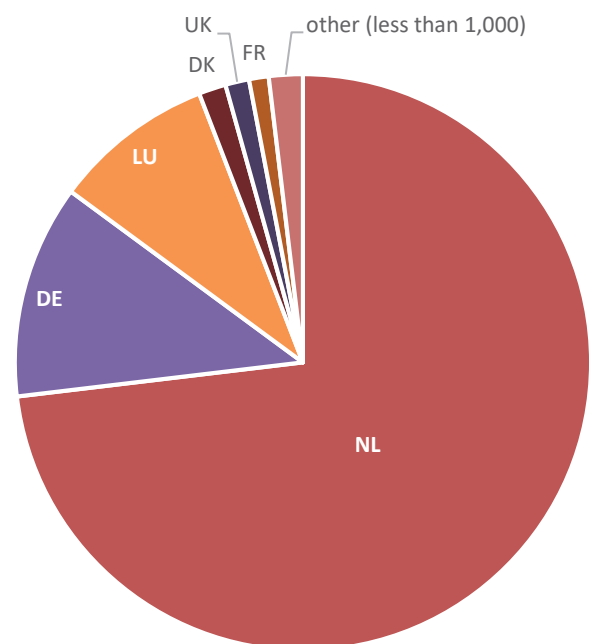
Action is needed to avoid large penalties:

- The introduction of a mandatory notification for employees who have been posted temporarily in a host location within the EU. As per 1 March 2020 the mandatory notification obligation is active in the Netherlands (and multiple other European countries).
- There is also an obligation to verify the notification for the service recipient in the host country and to notify the SVB (Dutch Social Security Authority) if no notification has been made.
- Posted workers are entitled to equal pay and access to collective labour agreements in the host country as well.
- Posted workers are also entitled to all mandatory working conditions of the host country after 12 or 18 months.

In practice

Before sending an employee on assignment elsewhere in the EU, you will need to consider the following:

- In order to make sure that a posted worker continues to stay covered under the social security legislation of his or her home country, an A1-declaration needs to be requested that states that the posted worker remains covered by the laws of the home country.
- Furthermore, local implementation of the Posted Workers Directive stipulates specific administrative compliance in relation to posted workers.
- You will need to send a timely notification to the authorities of the host country with the details of the posting.
- A liaison person for the authorities may need to be appointed.
- The company in the work state has the obligation to check if an advance notice has been submitted and verify the submitted notice.
- Different EU countries have different domestic websites through which the advance notification can be submitted. All notifications for temporary postings must be submitted through www.postedworkers.nl in the Netherlands.
- Not adhering to the advance notification rules could result in hefty fines. In the Netherlands fines range from € 750 to € 4500 depending on the offense and offender.



Source: 2019 Annual Report on Intra-EU Labour Mobility, European Commission, Jan. 2020

Exemptions

There is no notification requirement for certain types of occasional work over a limited timeframe, such as:

- Participating in business meetings;
- Carrying out urgent maintenance or repairs;
- Participating in sports or arts competitions;
- Attendance of academic conferences.

Special rules for notification

Small businesses (1- 9 workers) and self-employed persons may, under certain conditions, notify annually. They need to be located within 100 kilometres from the Dutch border. However, one-year notifications do not apply to the construction sector or the temporary employment sector.

Furthermore, the notification requirement for self-employed persons is limited to specific industries/sectors (e.g., construction, cleaning and healthcare).

How can Crowe assist?

Does your business post employees throughout the EU? Have you not yet implemented the Posted Workers Directive in your business operations or would you like an expert's opinion on the best way of doing so?

Crowe can help your business with:

- Tracking and follow-up of advance notifications within the EU;
- Support with application of A1/Certificate of Coverage;
- Acting as a liaison person to the local authorities;
- Coordination between two or more EU employers;
- Advisory services;
- Monitor host state employment requirements;
- Support during tax- or social audits.

Please get in touch with us if you have any questions.

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