



EU Posted Workers Directive Quarterly Review

2024-02 Summer



Administration News

Case Law
and Legislation

Key Contacts



Administration News

European Union

Record fines during joint inspection in road transport

May 29, 2024: Authorities from 11 EU member states, supported by the European Labour Authority (ELA) and European Roads Policing Network (ROADPOL), conducted inspections focusing on compliance with driving and resting times.

The operations checked 555 vehicles, identified 396 infringements, and resulted in over EUR273,000 total fines.

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European Union

Digitalization in social security coordination: PROGRESS Programme

May 23, 2024: ELA launched the PROGRESS Mutual Learning and Understanding Programme on May 29, 2024. The Programme supports local authorities in the EU in digitalizing social security coordination and implementing the Electronic Exchange of Social Security Information (EESSI) system.

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European Union

20th anniversary of the EU enlargement in 2004

May 23, 2024: ELA organized a conference in Riga, Latvia, to mark the 20th anniversary of the EU enlargement with a focus on the Baltic States – Latvia, Lithuania, and Estonia.

Discussions included labour market situations, challenges in applying the EU rules on posting of workers, and the role of ELA in promoting fair labour mobility in the EU. The event aimed to enhance collaboration among stakeholders, improve awareness of the EU contributions to growth and jobs, and address issues related to worker mobility and access to the Single Market.

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European Union

Report on implementation of EU directives on posting of workers

April 30, 2024: The European Commission (EC) published a report about the implementation of the rules for posting of workers in EU member states.

EC identified several areas in respect of local implementation of the rules that need more focus, including improving quality of information about rules and requirements for posting of workers, monitoring and enforcement of the rules (e.g., inspections, campaigns, etc.).

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European Union

26 multinational construction worksites checked across the EU

April 4, 2024: In March, ELA supported cross-border inspections involving almost 200 companies, with over 600 workers interviewed.

Eight joint inspections occurred across the EU, focusing on construction sites with foreign workers and involving multiple enforcement authorities.

Infringements such as undeclared work, safety violations, and illegal employment were identified, with fines pending investigation outcomes.

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European Union

Labour and skills shortages in the EU

March 20, 2024: The European Commission (EC) identified 42 occupations facing labour and skills shortages and has proposed an action plan to address these challenges.

The plan includes measures to support underrepresented individuals entering the labour market, enhance skills development and working conditions, facilitate intra-EU mobility, and attract talent from outside the EU.

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European Union

[Equality of treatment for social security benefits between frontier workers and local residents](#)

May 16, 2024: The Court of Justice for European Union (CJEU) delivered a ruling in which the court found that Luxembourg's denial of family allowances to a frontier worker resident in Belgium is contrary to the EU law.

In this case, a Belgian national residing in Belgium and working in Luxembourg (frontier worker) was denied family allowance for a child placed in his household by a court order in Belgium. The CJEU ruled that frontier workers must have equal access to social security benefits as national workers when they are covered by that country's social security scheme, regardless of residency status or the origin of court orders for child placement.

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Denmark

[High Court clarifies application of Temporary Agency Workers' Act](#)

April 2024: The case involved three workers employed by a temporary work agency who were successively assigned to the same company. For two IT supporters assigned due to temporary outsourcing delays, the court found no abuse, confirming their coverage under the Temporary Agency Workers' Act.

However, for a supply chain analyst with four successive assignments, the court identified a lack of objective reasons for successive postings, ruling it abuse. This worker was then covered by the Salaried Employees Act and the Act on Fixed-term Work instead.

This decision highlights the need for objective criteria to determine the temporariness of assignments under Danish and EU law.

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France

[Court upholds employee rights in dispute about transfer of contract to a new company](#)

March 2024: The Court of Cassation ruled in favor of an employee in a contract transfer dispute involving the freight railroad sector.

The case revolved around the payment of bonus to a cleaning worker whose employment contract was transferred to a new company. The Court emphasized the importance of maintaining the level of remuneration for transferred employees, citing European case law and provisions of the collective bargaining agreement.

The decision highlights the obligation of succeeding companies to uphold employees' rights and remuneration levels following a transfer of contracts.

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Germany

Ruling on status as temporary agency worker vs. permanent worker

February 2024: The case involved a plaintiff who argued that, due to management by another group company and the majority of colleagues being temporary agency workers, she should be considered a temporary worker.

The court in Germany ruled that an employee does not become a temporary worker solely because most colleagues are temporary agency workers. Additionally, the Court clarified that the principle of equal treatment under the Act on temporary agency worker protects temporary agency workers from being treated less favorably than permanent employees but does not extend benefitting permanent employees.

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Iceland

Court ruling on maternity benefits

February 2024: The Supreme Court in Iceland ruled on a case involving a woman's application for maternity benefits in Iceland. Despite working in Denmark before moving to Iceland, she was only entitled to lower "birth stipend" under Icelandic law, which did not consider her Danish salary.

The District court referred the matter to the European Free Trade Association (EFTA) court, which concluded that Icelandic legislation violated the European Economic Area (EEA) principles.

However, the Supreme Court upheld Icelandic law, stating it had not been implemented in line with the EFTA court's conclusion. While acquitting the Icelandic State, the Supreme Court acknowledged the inconsistency with the European law, which could lead to liability or action from the EFTA surveillance authority.

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Italy

Compensation for seasonal workers' right of precedence

April 2024: Italian Court of Cassazione ruled that seasonal workers have precedence for similar positions as the one they held upon the termination of their employment.

Seasonal workers are entitled to compensation for damages rather than guaranteed permanent employment should this right be violated.

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Netherlands

[Advisory Report: Risks for Posted Workers and Dutch Society](#)

March 2024: The Advisory Report, “No Third-Class citizens”, dated March 13, 2024, highlights that posted workers in the Netherlands often face exploitation, receiving inadequate wages, poor working conditions, and limited social security benefits. This arises from regulatory discrepancies between the Netherlands and sending countries, leading to “competitive secondment”.

The Advisory Board in the Netherlands recommends slowing down labour market flexibility, intensifying efforts to combat fraudulent employment, strengthening the position of posted workers, and forming better agreements at the European and bilateral levels.

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Poland

[Providing accommodation to workers does not constitute workers' revenue](#)

May 13, 2024: The Supreme Administrative Court in Poland ruled that the costs of accommodation incurred by an employer posting a worker, as part of service provision, to another Member State do not constitute that worker's remuneration.

All benefits related to accommodation of workers by the company should be, in fact, deemed incurred in the interest of the employer, which is why they do not give rise to tax obligation on account of free-of-charge benefits for the employees.

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Slovenia

[Revised minimum hourly rate for certain occupations and work](#)

February 2024: The minimum hourly rate for occasional and temporary work in agriculture has been raised to EUR7.21 (previously EUR6.92).

Further, the minimum hourly rates for occasional and temporary work for retired persons and students were revised. For retired persons, the minimum hourly wage is raised to EUR7.21, effective from March 1, 2024, until February 28, 2025. Similarly, the minimum hourly rate for students' occasional and temporary work has increased to EUR7.21 gross, starting from February 3, 2024.

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Sweden

[Swedish labour court fines Latvian company for breach of rules for posted workers](#)

February 2024: The Swedish Labour Court ruled that a Latvian company violated the Swedish construction work collective agreement while using posted workers in Sweden.

Despite the Construction Workers' Union not having members at the workplace, the company was bound by the collective agreement due to its affiliation with a Swedish Employer Organization.

The court found the company had breached clauses on pay, overtime, and working hours, awarding Union SEK750,000 (~EUR70,000) in compensation.

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United Kingdom

[Employment Appeal Tribunal rules there was no active assignment during suspension of an agency worker](#)

February 2024: Employment Appeal Tribunal in the United Kingdom ruled against an agency worker's claim for payment during a suspension period, finding that her assignment terminated when she was sent home after an incident during her shift.

The claimant argued for an ongoing "Agency Relationship" beyond individual assignments, but the tribunal disagreed, stating that Regulation 5 of Agency Work Relationship only applies during active assignments.

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United Kingdom

[Implementation of new minimum wage rates](#)

March 2024: The National Minimum Wage effective from April 1, 2024, introduce new minimum wage rates. The amendments include extending the National Living Wage (NLW) to cover workers aged 21 and over, reducing the age threshold from 23.

The NLW increased from GBP10.42 to GBP11.44 per hour. Additionally, the National Minimum Wage (NMW) for 18- to 20-year-olds rose from GBP7.49 to GBP8.60 per hour, and for 16- to 17-year-olds, it increased from GBP5.28 to GBP6.40 per hour.

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