



# GMS Flash Alert

## Employment Law

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## European Union – Postings in EU on Rise, While Number of Posted Non-EU Nationals Increases

Recently, the European Commission published its second report about posted workers with a reference year of 2022.<sup>1</sup> The report is based on data from systems for mandatory prior registration of posted workers and data about issued A1 certificates for social security under rules for detached workers.

The report shows almost 5 million postings in the EU in 2022, and workers are posted on average 2.5 times.<sup>2</sup> Every 4th posted worker is not a national in an EU member state, stressing that a number of workers who are providing cross-border services in the EU are increasingly not EU nationals.<sup>3</sup>

Sweden saw an increase of 45 percent of registered postings and became one of the main receiving countries along with Luxembourg, the Netherlands, Germany, Austria, Belgium, and France.<sup>4</sup>

### WHY THIS MATTERS

Reports on posted workers emphasize and support the focus of the authorities on this specific group of cross-border workers. This data help authorities track and make assumptions concerning employers' compliance with terms and conditions for employment of posted workers as well as employers' compliance with the mandatory prior registration of posted workers.

It can be reasonably expected that local authorities and European organizations for labor mobility will continue to increase their focus on enforcement of the rules for and mandatory registration of posted workers.

Employers, both those established in the EU and those established outside the EU, that post workers to the EU should therefore be mindful of complying with the requirements for posting of workers to reduce the risks of financial penalties and criminal prosecution as well as significant "disruptions" such as ceasing of activities in the host country, blacklisting, and reputational damage.

## Highlights from the Report about Posted Workers

### Who Are Posted Workers?

Posted workers are sent by their employers to deliver services in another country to a service recipient in the host country.

Posted workers can be detached workers, short- or long-term assignees, business travelers, graduates on rotation, rotational workers, etc.

Postings included are postings from one company to another company(-ies)/customers/clients, including subcontracting (so-called services under a service agreement), intercompany postings, and postings by a temp agency. Service recipients can be a company, but it can be a private person too.

### Highlights from the Report

About 5 million postings in the EU were registered in 2022 – and it should be stressed here that in February 2022, registration of posted workers in international road transport was moved from local registration systems in each EU country to a central EU registration system that is dedicated only to the registration of posted workers in road transport.<sup>5</sup> Some employers continued to register posted workers in road transport in the local registration system after February 2022, but the decline in the number of posted workers for this sector is still substantial.<sup>6</sup>

This means that the overall number of registered postings has increased by 14 percent when registration of posted workers in road transport is excluded from the data.<sup>7</sup> It should be noted that registered postings of workers posted by an employer established outside of the EU constitute around 7 percent.<sup>8</sup>

Main sending countries are Germany and Poland like the previous year, but Lithuania has joined these countries and represents 8 percent of all postings in 2022 (which is remarkable for a country that is significantly smaller than Germany and Poland).<sup>9</sup> Germany is also one of the main receiving countries and in total 651,000 postings from Poland were registered in Germany in 2022.<sup>10</sup> It is useful to note that mandatory registration of workers posted to Germany applies only to select business sectors and not all.

Besides Germany, main receiving countries are Austria, Belgium, and France as in previous years, and now with a new addition, Sweden. Sweden noted an increase of 45 percent in registered postings. Significant increases in registered postings were noted in Luxembourg and the Netherlands too.<sup>11</sup>

The average duration of a posting in 2022 is 115 days, which means that many registered postings are of shorter duration and only 5 percent of the registered postings in 2022 lasts longer than 12 months.<sup>12</sup>

Lastly, the report shows that the number of posted workers who are not EU nationals is a growing phenomenon in delivery of cross-border services in the EU. Every fourth posted worker is not a national of an EU country.<sup>13</sup> Namely, workers that carry nationality in Belarus, Bosnia and Herzegovina, Brazil, Morocco, Turkey, Ukraine, and the United Kingdom dominate the data about posted non-EU workers.<sup>14</sup> A particularly high number of posted non-EU workers are sent from Belgium, Lithuania, the Netherlands, and Austria.<sup>15</sup>

## KPMG INSIGHTS

Since three countries have not provided data for the report, one of them being Spain, it is reasonable to assume that the increase in registered postings is significant for 2022. But what does this all mean? Can businesses use it for anything?

The report about posted workers gives insight into labor mobility in the EU. It is reasonable to assume that some countries have strengthened their efforts in enforcement of the rules about posted workers.

For example, a drastic spike in registrations of posted workers noted in Sweden, Luxembourg, and the Netherlands could indicate that employers are generally more compliant, but it could also indicate that authorities are more active about providing information around and auditing the requirements for compliance with the rules for posted workers.

A relatively small EU country, Lithuania, is a significant exporter of labor and services, which could indicate that postings from countries like Lithuania (and Poland) are subject to scrutiny by local authorities. This is not unimaginable since these countries generally have lower salaries compared to countries like Luxembourg, France, and Germany, and authorities in countries with generally higher salaries could have aimed their audits at employers posting from countries with generally lower salaries.

Overall, it can be concluded that registrations of posted workers are increasing, including the number of postings by employers established outside the EU, which may indicate that authorities are more diligent with enforcement of the rules for posted workers, that employees are more knowledgeable about their rights during posting, and that more employers are informed about their obligations in this regard and are complying with the rules to a higher degree than before.

Rules for posting of workers is one of the cornerstones of labor mobility in the EU and a focus on this topic is expected to continue to increase.

KPMG has a network of experts who deal with posted workers and the rules pertaining thereto and offer services that enable a centralized process for compliance with the registration obligation around posted workers.

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## FOOTNOTES:

1 Publications Office of the European Union: [Posting of workers, Collection of data from the prior declaration tools, Reference year 2022](#), 24 July 2024. Estonia, Croatia, and Spain did not provide data for the report, and data for Luxembourg is used from the [annual statistical report](#) of the Labour and Mines Inspection.

2 Ibid., p. 7.

3 Ibid.

4 Ibid.

5 European Commission: [Road transport declaration portal](#), February 2022. For related coverage, see [GMS Flash Alert 2021-076](#), 8 March 2021.

6 Publications Office of the European Union: [Posting of workers, Collection of data from the prior declaration tools, Reference year 2022](#), 24 July 2024, p. 10.

7 Ibid.

8 Ibid.

9 Ibid.

10 Ibid.

11 Ibid.

12 Ibid., p. 11.

13 Ibid. p.25-26.

14 Ibid.

15 Ibid.

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