



# EU Posted Workers Directive Quarterly Review

2023-01 Spring



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## PWD Registration / Notifications -Top Tips

### Luxembourg

#### Changes to mandatory pre-registrations

The Luxembourg PWD notification portal has been amended. Several data fields have been changed, mostly minor in nature. Two significant changes, however, concern the mandatory pre-registrations required with the Ministry of the Economy, and for Luxembourg VAT. These reference numbers are no longer mandatory fields.

### Austria

#### Third-country nationals require additional documents

EU PWD notifications very rarely require supporting documents. One important exception concerns non-EU citizens posted to Austria. These postings require upload of proof of right to work in Austria, generally a work permit or residence permit.

### France

#### Online platform upgraded

The French PWD notification portal has been streamlined, and the process to obtain and use the receipt of submission has been improved. The notification confirmation now includes a QR Code which can be scanned by a smartphone to extract the relevant data. The fields required for submissions remain the same.



### European Union

European Labour Authority published its work programme for 2023

**February 6, 2023:** The ELA published its work programme for 2023 defining the authorities' priorities and work for 2023. The ELA will be focusing on construction sector closely, and will target to improve the information on obligations and rights for the construction sector. The ELA will also continue the aimed activities in road transport and seasonal work. The ELA's priorities for 2023-2025 revolves around the key hurdles in labour mobility across EU, pertaining to posting of workers, social security coordination, workers' free movement, road transport-related mobility issues, etc.

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### European Union

EU handbook on working conditions of posted workers in the construction sector during COVID-19

**February 5, 2023:** The 'European Market Environment in the Construction Sector -Boosting the posted workers' free movement in the EU' (EMEcs) project, co-funded by the European Commission targets to understand how the introduction of measures by Member States to fight the COVID-19 pandemic have affected the posted workers pertaining to the construction sector.

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### European Union

Launch of labour migration platform: a positive step for EU migration policy

**January 2023:** The European Commission launched a labour migration platform for improving labour migration governance and for assisting in providing the impetus for reforms. The creation of EU talented pool was proposed by the commission to ensure better informed, targeted and coordinated economic policies and the EU and the national level.

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### European Union

ELA Week of Action in the Road Transport Sector

**February 23, 2023:** The European Labour Authority (ELA), in cooperation with the ROADPOL organized first week of action for 2023 pertaining to the Road Transport sector from 14<sup>th</sup> to 19<sup>th</sup> February 2023. The inspection took place in Austria, Belgium, Croatia, Denmark, Malta, Netherlands, and Romania and 283 control officers took part in hosting and observation. 436 vehicles were checked, 269 infringements were detected, 16 member states were involved, 3 vehicles were impounded, and 1 reported person was arrested for other unrelated illicit activities.

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## European Union

### Labour exploitation in the meat industry revealed in cross-border inspections

**December 2, 2022:** The ELA assisted the inspection of living and working situations of Romanian workers (mostly) working in the Netherlands in the meat industry. Above 100 officers were involved from Germany, the Netherlands, and Romania. 42 workers' accommodations were checked across the border in Germany, and 150 tenants were interviewed, where unworthy housing conditions of workers were discovered. Temporary employment agencies were also inspected.

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## Case Law and Legislation

## European Union

### Commission calls on 17 Member States to comply with EU Posting of Workers Enforcement Directive

**January 26, 2023:** Seventeen EU member countries have two months to take action pertaining to the reasoned opinions sent them by the EU Commission in January 2023 about a lack of compliance regarding the registration systems for posted workers under EU law. 17 EU member states who received reasoned opinions from the EU Commission are: Belgium, Bulgaria, Czechia, Denmark, Germany, Ireland, France, Italy, Hungary, Malta, Netherlands, Austria, Poland, Romania, Slovenia, Slovakia, and Finland.

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## Belgium

### Ruling on lower pay to temporary agency workers

**December 31, 2022:** The Court of Justice for European Union ruled that Belgian collective bargaining agreement would require a compensation for the lower pay of temporary agency workers relative to those hired directly by the user undertaking by offering benefits that would offset for the disparity in pay, duration of working time, breaks, overtime, rest periods, night work, holidays, etc.

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## Italy

### Provisions for Parental leave

**December 31, 2022:** As per the approved budget for the financial year 2023 and the multi-year budget for 2023-2025, there is an increase in allowance for parental leave of working parents to 80 percent of the worker's salary (previously 30 percent for one month within child's six years; applicable for adoption and custody as well). The allowance remains 30 percent for the remaining months of parental leave.

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## Luxembourg

### Adoption of bill implementing posting of drivers in road transport sector

**December 31, 2022:** Luxembourg has adopted a bill on posting of drivers in the road transport sector, which introduces amendments to the general posting regime and clarify and adapt the terminology for considering the European Commission's observations. The administrative sanctions have been replaced with criminal sanctions, which levies up to EUR 125 000 of fine and up to 5 years of imprisonment.

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## Luxembourg

### Amendments in the rules for Parental leave

**December 31, 2022:** Luxembourg has adopted a law in line with the EU law, as interpreted in some cases by the Court of Justice for European Union concerning parental leave and social security aspects of child allowances. Luxembourg's legislation imposes two requirements for entitlement to parental leave: firstly, the worker must remain employed and insured not only for a continuous period of minimum 12 months immediately preceding the beginning of parental leave, but they must also be employed at the time of the child's/children's birth or when an adopted child arrives.

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## Netherlands

### Court rules: assigning a temporary agency worker for a total period of 13 years is not abuse

**December 31, 2022:** The Dutch court provided a ruling on a case concerning an employee who worked for the same user undertaking for 13 years based on various assignments by two different temporary work agencies. The key question was about whether the worker in fact should be considered as employed by the user undertaking? The court considered that a limitation of the duration of consecutive assignments is not regulated by Dutch law, and that it is up to the Dutch legislator to regulate the maximum period of assignments and sanctions when this period is exceeded.

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## Norway

### Introduction of restrictions on hiring workers from temporary work agencies

**December 31, 2022:** As per the amendments pertaining to the Working Environment Act, there are some restrictions introduced in the possibility of hiring employees from the temporary work agencies. The amendments have abolished the probability of hiring employees from temporary work agencies for performing work of temporary nature. However, two exceptions have been stipulated for health care personnel and employees with special skills. Secondly, the temporary agency workers cannot be hired for construction work on construction sites in Oslo, Viken and formerly Vestfold. The temporary agency workers have the right to get permanent employment after three consecutive years, regardless of the reason for which they were employed. The new restrictions will come effective April 1, 2023, with specific transitional rules.

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