

HRM Global Mobility Practice: Remuneration of Posted Workers as a Part of Relocation Process

Daniela Zachová¹ – Zuzana Křečková Kroupová²

ORCID iD: 0000-0002-4942-9890¹, 0000-0002-0448-7069²

daniela.zachova@vse.cz, zuzana.kreckova@vse.cz

Prague University of Economics and Business, Faculty of International Relations,
Department of International Business,
Prague, Czech Republic

DOI 10.18267/pr.2024.vol.2512.15

Abstract: The enactment of revised Posted Worker Directive in 2018 (Directive 2018/957/EU) gave a momentum to EU Member states to transpose the Directive into their national legal order within a two-year duration. Posted workers remuneration reimbursed by the Employer must be calculated on the principle of an “equal pay”, which either has to be based on the comparison of remuneration received by the Employer in the Home country and the statutory minimum wage in the country of posting, but also alternatively, based on the universally applicable collective bargaining agreements, if those apply. In order to apply such principle, when calculating the posted workers remuneration, it is necessary for the Sending entity (as Home employer) to obtain and evaluate the collective bargaining agreements applicable for the respective work performance done in the scope of posting, which is a challenge, as the collective bargaining agreements are often available only in local language. Therefore, this paper investigates the situation across all EU, EEA and EFTA Member states and aims to provide a comprehensive overview on a regional scale of remuneration system with the main focus on basic salary for posted workers including the state of translation universally applicable collective agreements per each above mentioned state.

Keywords: posted worker, remuneration, equal pay

JEL Classification codes: M16; M15; M10

INTRODUCTION

The competitiveness of the European region requires free labor force mobility. One of the key components introduced by the latest revision of Posted Worker Directive (enacted as the Directive 2018/957/EU and further referred as Posted Worker Directive) is a concept of fair remuneration, specified in the Directive as the “equal pay” principle. The principle is not only a prerequisite for free labor market mobility, it is also an answer on how to prevent social dumping set of business tactics on national, international, and inter-corporate levels, as the issue of social dumping of foreign employees has been in the eye of the authorities at least since 1992 (the year of introducing Treaty of Maastricht) (Berger & Luckmann, 1990). Therefore the Posted Worker Directive imposes an obligation to the Employer of posted worker to comply with the equal pay requirement. The principle of equal pay has its own definition in the Posted Worker Directive, it should be understood as “equal pay for equal work” performed by the posted worker in the same place as the local employee in the country of posting. However, to apply the equal pay principle on the remuneration of posted workers has shown as challenging. The reason of the challenge is that the basic component of each posted workers

remuneration – basic salary earned in the country of employment, has to be compared with the basic salary applicable in the country of posting. Such basic salary is either determined based on statutory minimum wage (also known as universal minimum wage) or collective bargaining agreement (CBA). Collective bargaining agreements often (but not exclusively) includes the sectoral minimum wages applicable for locally hired employees, as they are set between the employers and the workers. However, in their absence, national collective bargaining agreements apply, representing the minimum standards per certain industry (Berger & Luckmann, 1990). The literature and also the jurisprudence of the CJEU recognize beside the above stated terms also an expression “minimum rates of pay”. This term refers again to remuneration, but as a sum of individual elements, when one of them is the basic salary: minimum wage or salary calculated based on respective CBA. For the purpose of this paper, we are going to further use the terms minimum wage and CBA.

The urgency of the topic of remuneration of posted workers lies, as already mentioned, in social dumping activities. Whether the posted workers are transferred on purpose from “low wage” country elsewhere due to saving labor costs, multinational companies settled in “high wage” country leasing the personnel via subcontractors from “low wage” countries or leasing temporary agency workers from “low wage” countries, in all cases the “equal pay” principle is relevant. Therefore, fair remuneration of posted workers became not only part of the social dialogue and soft law, but also a part of legal historical development on the national scale as well as EU one (Berger & Luckmann, 1990). To demonstrate the development of EU on the topic of fair remuneration, we would like to present the following overview of key Directives supporting the principles introduced in the European Pillar of Social Rights in the form of the following Table 1:

Table 5 - Overview of key Directives related to posting of workers including principles introduced in the European Pillar of Social Rights

Date	Description
1996	First adoption of the Posted Workers Directive (96/71/EC)
1999	Deadline of implementation of the Posted Workers Directive (96/71/EC) to EU
2014	Adoption of the Enforcement Directive
2016	Proposal for revision of the Posted Workers Directive
2016	Deadline of implementation of the Enforcement Directive (2014/67/EU)
2018	Adoption of the revised Posted Workers Directive (2018/957/EU)
2019	Adoption of the Transparent and Predictable Working Conditions Directive (2019/1152/EU)
2020	Deadline for implementation of the Revised Posted Workers Directive (2018/957/EU)
2022	Deadline of implementation of the Transparent and Predictable Working Conditions Directive (2019/1152/EU)

Source: European Parliament (2023)

The development of EU directives concerning fair remuneration reflects the commitment of the EU to uphold the principles of equal treatment and social justice. By ensuring that posted workers receive fair remuneration based on equal pay principle and comparable working conditions as local employees, these directives contribute to the realization of the European Pillar of Social Rights, which aims to guarantee fair and decent living standards for all workers

in the EU. Moving forward, continued efforts to enforce and strengthen these directives will be essential in combating social dumping and promoting fair remuneration across the EU.

1 LITERATURE REVIEW

A multinational company (MNC) is defined as a "a firm having operations in more than one country, international sales, and a nationality mix of managers and owners." (Doh & Luthans, 2018). The maintenance of global operations usually brings the challenge of hiring and even posting abroad appropriate staff to perform tasks allocated to the respective global positions or projects.

There are a few premises, which have to be considered, when selecting the staffing strategy for international assignments. First of all, the MNC must consist of at least one entity, but operate cross border in at least another two countries. Secondly, cross-border business activities usually trigger legal implications for all involved parties, which are related to various topics (e.g. tax, labor law, immigration, social security, commercial and export) depending on the country combination, duration of an assignment, profile of companies, their business portfolio and also the profile of employees posted abroad (Foley et al., 2021). Moreover, a significant impact cause whether the employee is going to be temporarily providing services or acting as hired-out personnel (Tansky & Heneman, 2006). The elementary criteria highlighted above could be shrunk to the following basic staffing concepts: secondment, transfer of employment, dual employment, and employer of records (Collings & Scullion, 2009). The major difference between those strategies lies in the employment parties – either the employment contract remains active in the country of employment (further referred as Home country) during the assignment, become dormant or the contract is canceled on the Home side and a new employment relation is established between the assignee and entity located in the country of assignment (further referred as Host country). Alternatively, employment could be active on both sides. Finally, as it will be soon obvious, the employment setup affects the remuneration scenario during the assignment.

Taking now a closer look at secondment, a general definition considers secondment as the detachment of a person from his or her regular organization for temporary assignment elsewhere (Lalanne, 2011). Torzo argues, that being seconded implies a general rule, that the seconded employee remains subject to the managing and disciplinary power of the Employer based in the Home country and is therefore liable to fulfill all liabilities connected vis-à-vis the secondment (Torzo, 2014).

The provision of services in the EU complies with the principle of freedom to provide cross-border services set by Article 56 of the Treaty on the Functioning of the European Union (2012), which in general prohibits any kind of burden or restriction on service provision related to EU nationals in the Member States. To this end, the EU case law, especially the case nr. C-43/93 of Raymond Vander Elst v. Office des Migrations Internationales (1994) ruled by the European Court of Justice, clearly confirmed, that also third-country nationals, legally residing in any of the Member states on a long term basis, should possess the freedom of cross-boarded services provision. Therefore, the third-country nationals posted by any EU-based company (further referred as Sending company) to another Member state should not be a subject to work permit or any other work authorization related proceeding (European Commission - Directorate General for Employment, Social Affairs and Inclusion, 2019). However, the practice over the past years proved that due to the fact, that each Member state adopted the EU case law differently (Mazzeschi, 2014), the principle of „cross-boarded provision freedom“ is not a reliable apparatus, which could help to ease down the necessity of Sending companies to apply for work authorization to be posted to the respective Member state. Lastly, if the posted worker

is posted in a concept of hiring out of personnel, the above specified work exemption does not apply.

The increasing amount of service provision in the EU was early reflected also by the legislators – concretely by introducing a specific Directive related to posting in 1996 (Kennedy, 2023). The Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, known as Posted Worker Directive or Directive 96/71/EC, set general mandatory rules for Employers such as posted workers to ensure protection and responsibilities for each party, as well as to prevent social dumping on the EU scale. The legal framework of posting the worker sets two prerequisites: the posted worker has to maintain employment in the Home country with no interruption and the posting duration must be scheduled up to 12 months, with a possibility to prolong the total duration up to 18 months upon special request.

The fundamental requirement of the Directive mandates that the Employer, acting as the Sending company, ensures that posted workers receive working conditions equivalent to those of locally hired employees. Alternatively, if conditions in the Home country are more advantageous, they would take precedence (Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 Concerning the Posting of Workers in the Framework of the Provision of Services, 2020). This requirement entails that the Sending company must conduct a compulsory assessment comparing the working conditions in the Home and Host countries. To carry out this evaluation, the Sending company must consider the “hard core set” of working conditions, as stipulated by either national laws or universally applicable sectoral collective bargaining agreement (CBA) (Vermandel & Van Overmeiren, 2020). The list of “hard core set” of working conditions to be compared is as follows:

- minimum wage;
- working time;
- vacation;
- health and safety;
- conditions of hiring out employees;
- protective measures for pregnant women or women with young children;
- equal treatment between men and women;
- other local public policy provisions.

However, above mentioned list of the minimum employment standards for posting has changed over time due to revision processes of the Posted Worker Directive. The key revision of minimum employment standards applicable for posted workers took place in 2018 (Directive EU 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services) following a prior proposal for revision of the initial Poster Worker Directive. The revised Posted Worker Directive 2018/957/EU was supposed to be implemented into the national legislation of each Member state no later than by 30 July 2020. The revision brought more detailed requirements towards the Sending company especially in terms of minimum employment conditions to be compared and then observed during posting. The significant alterations related to “hard core set” of working conditions could be outlined as follows: (Vermandel & Van Overmeiren, 2020):

- Introduction of the principle „equal pay for equal work“(further referred as equal pay principle) as key determinant for posted workers’ remuneration;

- If the secondment is longer than 12 months (with the possibility to extend up to a total of 18 months), Host country labor law conditions apply only (instead of the prior principle of applying more favorable working conditions);
- Temporary agency workers must be treated the same as local employees.

The above-stated equal pay principle would be a subject of further discussion in the following text, as according to joint inspections performed by European Labour Authority, the majority of inspected EU based companies struggle with selecting the correct remuneration (base salary) applicable in the Country of posting for the further comparison with the remuneration (salary) received by the posted worker in the Home country (European Labour Authority, 2023). Besides that, the newly introduced principle of equal pay has a high impact on both Home and Host Member state markets, as it aims to erase the difference between the costs of posted and locally hired workers.

The remuneration of posted workers according to the Posted Worker Directive is generally divided into two parts – wage and wage supplements. Wage is compensation for performed work based on the employment contract concluded between the posted worker and the Employer in the Home country (Vermandel & Van Overmeiren, 2020). Wage supplements represents additional payments based on the posted workers actual work performance: typically related to length of posting, acknowledgement of quality of work performance or payments related to location of the posting. Both wage and wage supplements, for which the posted worker is eligible to collect in the country of employment (Home country) and country of posting (Host country) in accordance with local labor law constitutes remuneration and should be compared (Vermandel & Van Overmeiren, 2020). The only exception not added to the comparison are expenses on the travel, board, and lodging as those should count directly to the Employer (Directive 2018/957/EU of the European Parliament and of the Council of 28 June 2018 Amending Directive 96/71/EC Concerning the Posting of Workers in the Framework of the Provision of Services, 2018). The following practical example demonstrates the approach explained above:

Table 6 Practical example of remuneration comparison

Gross amount to be paid in Home country (Czech Republic)		Gross amount to be paid in the Host country (Portugal)	
Home Basic salary	2,000 EUR	Host Basic salary (in accordance with equal pay principle)	3,000 EUR
Posting allowance	1,100 EUR		
Compensation for board, travel, and lodging	500 EUR		
Total	3,100 EUR	Total	3,000 EUR

Source: European Commission - Directorate General for Employment, Social Affairs and Inclusion (2019)

In the Table 2 above, the remuneration in the Home country (Czech Republic) is a total of 3,100 EUR. The amount of 500 EUR for travel, board, and lodging is not considered part of the remuneration as previously described. In the Host country (Portugal) would the posted worker receive based on the principle of „equal pay for equal work” an amount of 3,000 EUR (as per the original Directive 96/71/EC, for the purpose of the comparison would be the only benchmark used the national minimum wage in amount of 760 EUR gross per month). However, the Portuguese national legislation does not recognize posting allowance as part of

total remuneration, so the posted workers' remuneration in the Host country consists only of basic salary selected based on equal pay principle. When comparing the Home and Host basic salary, the Employer must also bear in mind the principle of applying more favorable conditions. The principle was described already in the Posted Worker Directive 96/71/EC: "*7. Paragraphs 1 to 6 shall not prevent the application of terms and conditions of employment which are more favorable to workers. Allowances specific to the posting shall be considered to be part of remuneration, unless they are paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging.*" (Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 Concerning the Posting of Workers in the Framework of the Provision of Services, 2020). As in the case above the Home remuneration exceeds the Host remuneration, the Employer of the posted worker must in accordance with principle of applying more favorable conditions preserve the remuneration scenario applicable in the Home country.

Given the fact that wage (basic salary) typically represents the largest portion of the remuneration, it is crucial to utilize for such comparison appropriate wage selected based on "equal pay" principle. To do so, the Employer (Sending company), in order to comply with the Posted Worker Directive, has to identify the correct minimum wage or amount set by the collective bargaining agreement (if the business activity performed in the Host Member state would fall under the scope of CBA). If the posted worker's basic salary paid in the Home country, compared to the minimum wage in the Host Member state, does not meet the basic salary paid to the posted worker by the Employer, the posted worker is eligible to receive compensation equal to the difference between those two basic salaries. However, although process-wise the above-described process of comparing remuneration of the posted worker might seem to be straightforward, challenges arise primarily during the initial step in identifying the correct basic salary that a posted worker is entitled to receive in the Host country.

2 METHODOLOGY

The critical assessment of posted worker key part of the remuneration – base salary across **EU, EEA, and EFTA** was conducted.

The research is based on primary and secondary data analysis. Primary research was conducted with specialists, in form of the in-depth interviews with Labor Inspectorate authorities (European Labor Authority members (ELA)) per each of the presented countries to cross check what constitutes in each specific EU Member state the base salary for posted worker and to verify the legal source of construction CBA. The secondary data were represented mainly by numerous EU policy papers, Directives, agreements, reports and expert commentaries, accompanied by databases within national legislation and financial systems of the **EU, EEA, and EFTA** countries.

Due to the novelty of comprehensive analysis of the topic, the study was exploratory, descriptive and analytical, based on the primary and secondary data. Having done the literature review, the authors formulated the following research questions:

RQ1: How much is the base salary remuneration of posted workers reflecting the equal pay principle?

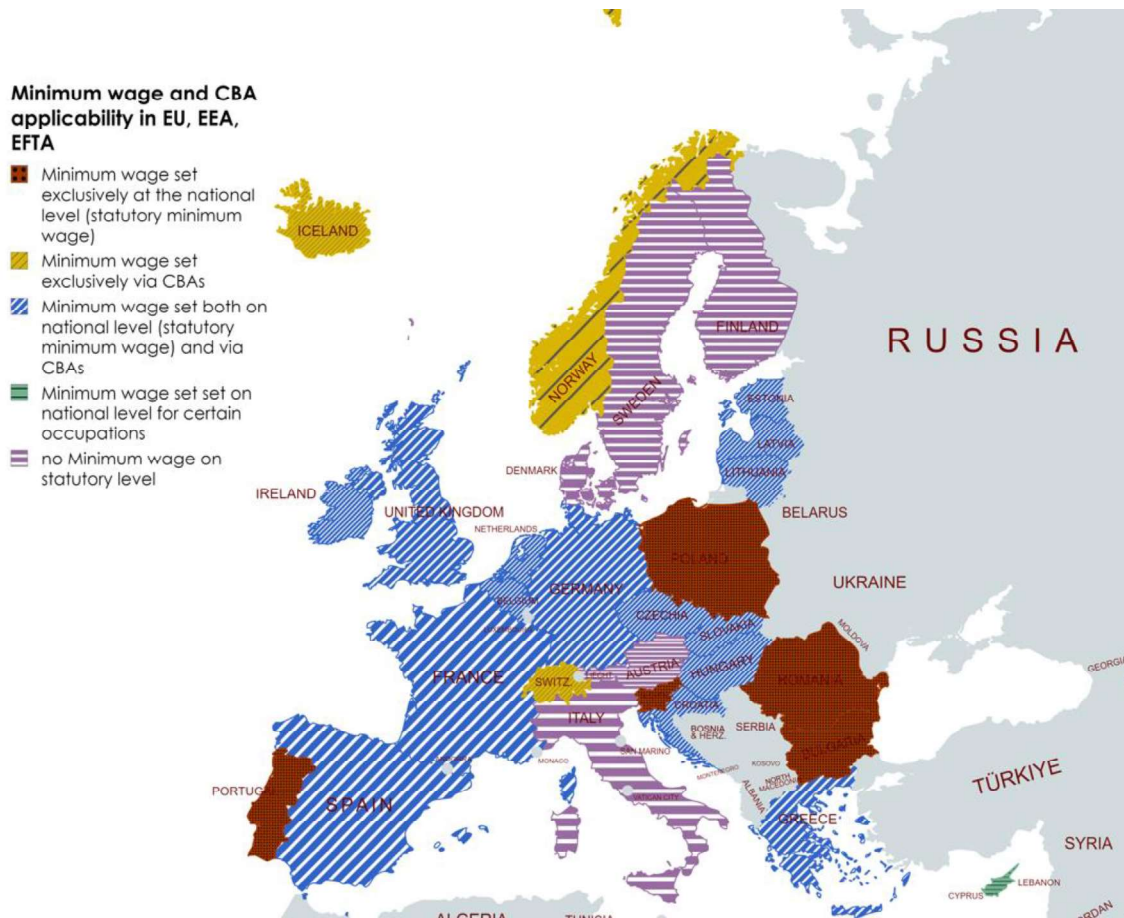
RQ2: What are the main determinants of the posted workers base salary?

3 RESULTS AND DISCUSSION

The principle of compensation under the revised Posted Worker Directive, known as "equal pay for equal work," no longer exclusively revolves around comparing the minimum wage applicable in the Host country as the benchmark for remuneration. As already mentioned, the level of basic salary used for comparison should be equal to one of the local employees working on the same position and performing the same tasks. However, the legal base for determination of the basic salary is as follows: *„...by the national law and/or practice of the Member State to whose territory the worker is posted including all the constituent elements of remuneration rendered mandatory by national law, regulation or administrative provision"* (Directive 2018/957/EU of the European Parliament and of the Council of 28 June 2018 Amending Directive 96/71/EC Concerning the Posting of Workers in the Framework of the Provision of Services, 2018) or alternatively as *„by collective agreements or arbitration awards which, in that Member State, have been declared universally applicable or otherwise apply in accordance with paragraph 8"* (Directive 2018/957/EU of the European Parliament and of the Council of 28 June 2018 Amending Directive 96/71/EC Concerning the Posting of Workers in the Framework of the Provision of Services, 2018).

First of all, there is a difference in the meaning between the concepts of minimum wage for posted workers laid by Directive 96/71/EC and the latter Directive 2018/957/EU. Referring to the term minimum wage pursuant to Directive 96/71/EC, the Employer (Sending company) had to comply with the minimum wage settled by the Host Member state national legislation (or alternatively a minimum wage set by applicable collective bargaining agreement). However, the following Image 1 provides an overview of how the minimum wage is determined among the EU, EEA and EFTA::

Image 1 Overview of Minimum wage and CBA applicability in EU, EEA, EFTA



Source: Arbeidstilsynet (2023); Eurofound (2023); Risch (2023); Schweizerische Eidgenossenschaft (2023); Vinnuálastofnun (2023)

The image above clearly indicates, that the constitution of minimum wage is among the selected states not unified. The only EU Member state, which has no minimum wage set on statutory level or in collective bargaining agreements is Sweden. Another approach also represent Cyprus as there is minimum wage established not on statutory level or in collective bargaining agreements, but only for certain occupations. For the rest of the states only the national level, collective bargaining agreements or a combination of both apply. The actual figures valid for the year 2023 are displayed in the table below. Furthermore, the Table 3 includes the minimum wage for the most frequent sector among posted workers, which is the sector of construction. The overview includes the information whether the collective bargaining agreement for this industry exists and if so which language mutations are available:

Table 3 Overview of minimum wage figures in EU, EEA, EFTA for 2023 (as of January 2023 in EUR)

Country	Structure of Minimum Wage	Minimum wage in gross	Sectoral CBA (construction) minimum wage in gross	Language mutations available for the section of remuneration	Source

Austria	CBA only	N/A	14.94 EUR per hour	German, English, Hungarian, Polish, Czech, Slovak, Slovenian	(Bundesministerium Arbeit und Wirtschaft, 2023)
Belgium	statutory minimum wage + CBA	1,995 EUR	14,3188 EUR per hour	French, Dutch	(SPF Emploi, Travail et Concertation sociale, 2023)
Bulgaria	statutory minimum wage only	399 EUR per month	N/A	N/A	(Eurofound, 2023)
Croatia	statutory minimum wage + CBA	700 EUR per month	820 EUR per month	Croatian	(Eurofound, 2023; Sindikat graditeljstva Hrvatske, 2023)
Cyprus	statutory minimum wage set for specific occupations	713 EUR per month	N/A	Greek	(ΚΕ.Π.Ε.Α/ Γ.Σ.Ε.Ε., 2023)
Czech Republic	statutory minimum wage + CBA	717 EUR per month	16 200 CZK per month	Czech	(Eurofound, 2023; Ministerstvo práce a sociálních věcí, 2023)
Denmark	CBA only	N/A	113.95 DKR per hour	Danish, English, German, Polish	(Confederation of Danish Industry, 2023; Workplace Denmark, 2023)
Estonia	Statutory minimum wage + CBA	725 EUR per month	N/A	N/A	(Eurofound, 2023)
Finland	CBA only	N/A	11.71 EUR per hour	Finnish, English	(Rakennusliitto ry, 2023)
France	statutory minimum wage + CBA	1,709 EUR per month	1 782 EUR per month	French	(Eurofound, 2023; La CGT, 2023)
Germany	statutory minimum wage + CBA	1,981 EUR per month	N/A	German	(Central Customs Authority, 2023; Eurofound, 2023)
Greece	statutory minimum wage + CBA	832 EUR per month	N/A	Greek, English	(Eurofound, 2023; Ministry of Labour and Social Security, 2023)

Hungary	statutory minimum wage + CBA	579 EUR per month	73,700 HUF per month	Hungarian, English	(Építőipari Ágazati Kollektív Szerződés, 2014; Eurofound, 2023)
Iceland	CBA only	N/A	410 984 ISK per month	Icelandic, English	(Vinnumálastofnun, 2023)
Ireland	statutory minimum wage + CBA	1,910 EUR per month	18.47 EUR per hour	English	(Eurofound, 2023; Workplace Relations Commission, 2023)
Italy	CBA only	N/A	1608.67 EUR per month	Italian	(Ministero del Lavoro e delle Politiche Sociali, 2023)
Latvia	statutory minimum wage + CBA	620 EUR per month	780 EUR per month	Latvian, English	(Eurofound, 2023; Labklājības ministrija, 2023)
Liechtenstein	CBA only	N/A	CHF 21.65 per hour	German	(Risch, 2023)
Lithuania	statutory minimum wage only	840 EUR per month	N/A	N/A	(Eurofound, 2023)
Luxembourg	statutory minimum wage + CBA	2,387 EUR per month	14.5 EUR per hour	French, German	(Eurofound, 2023; Inspection du Travail et des Mines, 2023)
Malta	statutory minimum wage + CBA	835 EUR per month	872.8 EUR per month	English	(Department for Industrial and Employment Relations, 2023)
Netherlands	statutory minimum wage + CBA	1,934 EUR per month	15.34 EUR per hour	Dutch, English	(Eurofound, 2023; Ministerie van Sociale Zaken en Werkgelegenheid, 2023)
Norway	CBA only	N/A	18.90 EUR per hour	Norwegian, English	(Arbeidstilsynet, 2023)
Poland	statutory minimum wage only	746 EUR per month	N/A	N/A	(Eurofound, 2023)
Portugal	statutory minimum wage only	887 EUR per month	N/A	N/A	(Eurofound, 2023)
Romania	statutory minimum wage only	606 EUR per month	N/A	N/A	(Eurofound, 2023)

Slovakia	statutory minimum wage + CBA	700 EUR per month	N/A	Local language only (Slovak)	(Eurofound, 2023)
Slovenia	statutory minimum wage only	1,304 EUR per month	N/A	N/A	(Eurofound, 2023)
Spain	statutory minimum wage + CBA	1,260 EUR per month	1,538 EUR per month	Spanish, Basque, Catalan, English, French, Galician	(Eurofound, 2023; Federación de Industria, Construcción y Agro (FICA, 2023)
Sweden	CBA only	N/A	92,88 SEK per hour	Swedish, English	(Byggnads, 2023)
Switzerland	CBA only	N/A	4,969 EUR (in canton Zurich)	German, French, Italian, English	(Schweizerische Eidgenossenschaft, 2023)

Own analysis, sources are listed above in the right column

While the minimum employment conditions applicable for posted workers (including the minimum wage) have been published on the national website of each EU Member state (and similarly the states of EEA and EFTA adopted the same legislation related to posted workers including the creation of website related to posting of workers on their territory), the collective bargaining agreements have been rarely translated to English or to other of the three main EU languages (German, French). Therefore, determining the Host remuneration (especially the basic salary) could be a lengthy and demanding process requiring in some cases ordering official translation or local professional's support. According to the figures presented in the table above, selecting incorrect CBA can result in using inaccurate basic salary for the purpose of posted workers remuneration, ultimately leading to posted workers receiving lower remuneration than they are entitled to, potentially resulting in employer noncompliance.

Finally, it is mandatory for the Employer as Sending company to report all posted workers, including applicable working conditions and remuneration based on Equal pay principle for the posting. There are only a few exceptions constituting no duty to report. Those are typically connected to certain duration of the trip or initial installation or assembly as for this activity the conditions of posting do not apply up to 8 days: *„In the case of initial assembly and/or first installation of goods where this is an integral part of a contract for the supply of goods and necessary for taking the goods supplied into use and carried out by the skilled and/or specialist workers of the supplying undertaking, the first subparagraph of paragraph 1 (b) and (c) shall not apply, if the period of posting does not exceed eight days.“* (Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 Concerning the Posting of Workers in the Framework of the Provision of Services, 2020).

Lastly, it is important to also highlight, that along with the transposition of the Directive 2018/957/EU, a new Directive (EU Directive 2019/1152 on the Transparency working conditions⁵) came into force. Directive 2019/1152 newly constituted for posted workers a right

to obtain a document before the departure, which would clearly state the following information (Directive 2019/1152/EU of the European Parliament and of the Council of 20 June 2019 on Transparent and Predictable Working Conditions in the European Union, 2019):

- country and duration of posting;
- currency used for remuneration;
- all applicable benefits or allowances related to the posting;
- information about repatriation and its conditions;
- remuneration to which the worker is entitled in accordance with the applicable law of the country of posting;
- information about benefits, allowances and conditions of reimbursement for expenditure on travel, board, and lodging;
- the link to the single official national website developed by the country of posting (pursuant to Article 5(2) of Directive 2014/67/EU of the European Parliament and of the Council (15)).

In accordance with the Directive 2019/1152/EU, the posted worker must receive relevant information about the calculated remuneration before the posting, so the Employer (Sending company) must process the calculation in advance of the posting, which on one side brings more clarity for the posted worker on the applicable conditions for the posting, on the other hand, creates an additional administrative burden for the Employer as Sending company, because the conditions can change during the posting (e.g. existence of overtime hours, the Cost of living allowance increase/decrease). To conclude, in the past four years, only the following countries already adopted the above-mentioned legislation and introduced it as a part of Labor code amendments so-called „posting agreement”: Germany, Slovakia, Poland, and Bulgaria.

CONCLUSION

Over the last three decades, there has been a noticeable increase in economic migration within the EU region. In response, the legislature acted swiftly by introducing the Posted Worker Directive in 1996, which underwent a significant revision in 2018. The Directive aimed to establish a fundamental set of working conditions for posted workers, with the goal of standardizing the posting practices for the EU-based employers and safeguarding posted workers against social dumping. Although the purpose of the Directive and its revision is comprehensible, the state of implementation by EU Member States (and similarly EEA and EFTA states) differ. The variations of integrating the Directive to the national legislation caused for Employers a challenge to understand to what extent the other Member state implemented the Directives and how does it affect the posting, what are the deviations from the Home country working conditions and most significantly, how to determine the remuneration in accordance with the equal pay principle.

As previously demonstrated through the example of remuneration calculation as key part posted workers working conditions comparison, we could clearly illustrate how complex the selection of basic salary and further comparison of Home and Host country applicable salary in accordance with equal pay principle, could be. We believe the potential simplification for a comparison lies in providing the Employers with the language mutation of collective bargaining agreements (especially in English as common language) or potentially if each EU Member state (including EEA and EFTA countries) would publish an Equal pay salary calculator. In praxis, such remuneration calculator (known as Minimum wage calculator followed by Calculation

spreadsheet for the directive on international wage comparison) has been already introduced by the Federal Department of Economic Affairs: Education and Research introduced, but it is only valid to posting to Switzerland (Schweizerische Eidgenossenschaft, 2023).

The calculator along with the spreadsheet represents comprehensive guidance for Employers posting their staff to Switzerland and guarantees compliant way how to fulfill the criteria of posting in respect of the Posted Workers Directive. Therefore, we argue that the benefits of providing such a solution for the Employers (Sending companies) by the EU Member state (including EEA and EFTA countries) are indisputable. Firstly, the unified process could eliminate potential errors in calculations of remuneration and provide Employer as well as posted worker with more clarity on the process. Secondly, the usage of the spreadsheet could be legally binding for the Employer (including archiving), and easily communicated to the employees - posted workers (instead of creating additional posting agreements prior to departure). Lastly, the spreadsheet calculation could be used in electronic communication: for example, as a part of reporting obligation (posted worker EU registration).

ACKNOWLEDGEMENT

This article was created within the framework of the Internal Grant Agency IGA project "Case studies and studies of best practices in international management - the role of the firm in the global mobility of human capital and strategic diversification in response to external crises", No. F2/20/2023.

REFERENCES

- Berger, P. L., & Luckmann, T. (1990). *The social construction of reality: A treatise in the sociology of knowledge* (Repr). Anchor Books.
- Collings, D. G., & Scullion, H. (2009). Global staffing. *The International Journal of Human Resource Management*, 20(6), 1249–1252. <https://doi.org/10.1080/09585190902909798>
- Commission Paritaire des Constructions Metallique, Mecanique et Electrique* / SPF Emploi, Travail et Concertation sociale. (2023). <https://emploi.belgique.be/fr/themes/commissions-paritaires-et-conventions-collectives-de-travail-cct/conventions-collectives-3>
- Construcción y minería* / FICA Federación de Industria, Construcción y Agro. (2023). <https://www.ugt-fica.org/sectores/construccion-y-mineria.html>
- Construction industry* / Labklājības ministrija. (2023). <https://www.lm.gov.lv/lv/construction-industry>
- Construction Sector* / Workplace Relations Commission. (2023). Workplace Relations Commission. https://www.workplacerelations.ie/en/what_you_should_know/hours-and-wages/sectoral_employment_orders/construction-sector/
- Directive (EU) 2019/ of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. (n.d.).
- Directive 2018/957/EU of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. (2018).
- Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 Concerning the Posting of Workers in the Framework of the Provision of Services (2020). <http://data.europa.eu/eli/dir/1996/71/2020-07-30/eng>

Doh, J. P., & Luthans, F. (2018). *International management: Culture, strategy, and behavior (Tenth edition)*. McGraw-Hill Education.

ELA's Framework for Action on Road Transport: Outcomes and way forward / European Labour Authority. (2023, May 23). <https://www.ela.europa.eu/en/news/elas-framework-action-road-transport-outcomes-and-way-forward>

Entsendeplattform / Bundesministerium Arbeit und Wirtschaft. (2023). <https://www.entsendeplattform.at/kv/Z04/bauindustrie-und-baugewerbe-zkv-baulose-cs-arb?language=cs>

Építőipari Ágazati Kollektív Szerződés. (2014). *ÉPÍTŐIPARI ÁGAZATI KOLLEKTÍV SZERZŐDÉS (ÉÁKSZ)*. Építési Vállalkozók Országos Szakszövetsége. <https://www.evosz.hu/hirek/2-bejegyzesek/62-epitoipari-agazati-kollektiv-szerzodes-eaksz>

Equal pay for equal work / Byggnads. (2023). <https://www.byggnads.se/om-oss/translation/english/>

EUR-Lex—C:2008:115:TOC - EN - EUR-Lex. (n.d.). Retrieved February 15, 2024, from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AC%3A2008%3A115%3ATOC>

Foley, C. F., Hines, J. R., & Wessel, D. (Eds.). (2021). *Global goliaths: Multinational corporations in the 21st century economy*. Brookings Institution Press.

Gebäudereinigung | Inspection du Travail et des Mines. (2023, September 28). <http://itm.public.lu/de/conditions-travail/convention-collectives/nettoyage-batiments.html>

How will the revision of the Posted Workers Directive impact your assignments? / Vermandel, N., & Van Overmeiren, F. (2020). <https://www2.deloitte.com/content/dam/Deloitte/be/Documents/tax/PostedWorkersDirective.pdf>

Kolektivní smlouvy vyššího stupně závazné pro další zaměstnavatele / Ministerstvo práce a sociálních věcí. (n.d.). Retrieved February 23, 2024, from <https://www.mpsv.cz/kolektivni-smlouvy-vyssiho-stupne-zavazne-pro-dalsi-zamestnavatele>

Kolektivni ugovor u graditeljstvu | Sindikat graditeljstva Hrvatske. (2023). <https://www.sgh.hr/kolektivni-ugovor>

Lalanne, S. (2011). Posting of workers, EU enlargement and the globalization of trade in services. *INTERNATIONAL LABOUR REVIEW*, 150(3–4), 211–234. <https://doi.org/10.1111/j.1564-913X.2011.00114.x>

Legal advice for companies / Confederation of Danish Industry. (2023). <https://www.danskindustri.dk/english/advisory/legal-advice/>

Mazzeschi, M. (2014). Mobility of Non-EU Workers within EU Implementing Vander Elst. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2928692>

Minimum conditions of employment—Conditions of employment as laid down in collective bargaining agreements and legal provisions / Central Customs Authority. (2023). https://www.zoll.de/EN/Businesses/Work/Foreign-domiciled-employers-posting/Minimum-conditions-of-employment/Minimum-pay-pursuant-AEntG-AUEG/Industries-minimum-wage-pursuant-AEntG-wage-floors-pursuant-AUEG/conditions_of_employment.html?nn=207008

Minimum wage / Arbeidstilsynet. (2023). <https://www.arbeidstilsynet.no/en/working-conditions/pay-and-minimum-rates-of-pay/minimum-wage/>

Ministerie van Sociale Zaken en Werkgelegenheid. (2023). *MinSZW / Directie UAW - Construction & Infrastructure Sector—10—BOUW EN INFRA (CAO)—TTW - 21-06-2023—31-12-2023—14902—20-06-2023*.

<https://www.uitvoeringarbeidsvoorwaardenwetgeving.nl/mozard/!suite92.scher1007?mObj=38186>

National Collective agreements / Ministero del Lavoro e delle Politiche Sociali. (2023). <https://distaccoue.lavoro.gov.it/en-gb/Thematic-Areas/Thematic-area-detail/id/3/National-Collective-agreements>

Ouvriers / La CGT. (2023). <https://fnsdba.com/ouvriers-2/>

Pay and working hours for posted workers / Workplace Denmark. (2023). <https://workplacedenmark.dk/working-conditions/pay-and-working-hours/>

Posting / Schweizerische Eidgenossenschaft. (2023). <https://entsendung.admin.ch/app/?wicket:interface=:0:8::>

Posting of workers / Kennedy, A. (2023, October). <https://www.europarl.europa.eu/factsheets/en/sheet/37/posting-of-workers>

Posting of workers—Fact Sheets on the European Union / European Parliament. (2023, September 30). <https://www.europarl.europa.eu/factsheets/en/sheet/37/posting-of-workers>

Practical guide on posting / European Commission - Directorate General for Employment, Social Affairs and Inclusion. (2019). Publications Office. <https://data.europa.eu/doi/10.2767/664838>

Statutory minimum wages / Eurofound. (2023). <https://www.eurofound.europa.eu/en/data-catalogue/minimum-wages/statutory-minimum-wages-2023>

Tansky, J. W., & Heneman, R. L. (Eds.). (2006). *Human resource strategies for the high growth entrepreneurial firm*. Information Age Pub.

Torzo, F. (2014). - . *Journal of Istanbul University Law Faculty*, 72(2), Article 2.

Verordnung vom 8. März 2022 betreffend die Abänderung der Verordnung über die Allgemeinverbindlicherklärung des Gesamtarbeitsvertrages für das Baumeister- und Pflästerergewerbe / Risch, D. (2023). https://www.gesetze.li/chrono/2022066000?search_text=+Mindestlohn&search_loc=text&lrnr&lglbid_von&lglbid_bis

Wage Regulation Orders / Department for Industrial and Employment Relations. (2023). <https://dier.gov.mt/en/Legislation/Pages/Wage-Regulation-Orders.aspx>

Wages and work hours / Vinnumálastofnun. (2023). <https://posting.is/en/employment-conditions/wages-and-work-hours>

Wages and working conditions / Rakennusliitto Rakennusliitto ry. (2023). <https://rakennusliitto.fi/en/wages-and-working-conditions/>

Καθορισμός κατώτατου μισθού και κατώτατου ημερομισθίου για τους υπαλλήλους και τους εργατοτεχνίτες όλης της χώρας από / ΚΕ.Π.Ε.Α / Γ.Σ.Ε.Ε. (2023). 1.4.2023. ΚΕ.Π.Ε.Α./Γ.Σ.Ε.Ε. <https://www.kepea.gr/kathorismos-katotatoy-misthoy-kai-katotatoy-imeromisthiyoy-gia-toys-ypalliloys-kai-toys-ergatotexnites-olis-tis-xoras-apo-1-4-2023>

Συλλογικές Ρυθμίσεις Εργασίας. Υπουργείο Εργασίας και Κοινωνικής Ασφάλισης. / Ministry of Labour and Social Security. (2023). https://ypergasias.gov.gr/category/silogikes_rythmiseis_ergasias/