



Company size and resources as determinants of access and use of information on the posting of workers: Evidence from Slovenia*

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Introduction

In the context of information provision, information access refers to the ability and capacity to identify, retrieve and use information effectively. Access to reliable information, i.e., comprehensive, relevant, trusted, and updated information (González Martínez, 2008), and the capacity to correctly process the supplied information is crucial for making informed decisions. In cases when workers are posted to provide services in different EU Member States where different rules and regulations apply, access to information on such laws and their correct application are of paramount importance to ensure compliance with relevant national legislations (Directive 2014/67/EU on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services). Due to the administrative and bureaucratic complexity of the process of posting of workers, the posting undertakings' have been facing challenges when seeking to obtain clear and country-specific information. However, it seems that larger companies and/or those with more financial resources and better informed supporting staff fare much better in this respect than smaller companies or the self-employed¹ (see Danaj et al., 2021).

Keywords:
posting of workers,
information provision,
construction sector,
Slovenia

This policy brief is based on the empirical evidence collected in the frame of the [INFO-POW project](#) and builds on the case of Slovenian posting undertakings in the sector of construction to outline the impact of company size and resources on the access and use of information. Empirical data is drawn from i) the mapping of the main information channels in Slovenia, ii) six qualitative interviews conducted with representatives from public authorities, social partners and consultants involved

¹ Smaller companies are defined in this brief as companies with fewer employees, lower revenue and without supporting services such as legal, HR and/or accounting.

* The results presented here are based on research conducted in the frame of the project 'Assessment of the channels of information and their use in the posting of workers' [[INFO-POW](#)]. This publication has received financial support from the European Social Fund+ (ESF) and Social Prerogatives and Specific Competencies Lines (SocPL), Call ESF-2021-POW (project number 101059290). For further information please consult: <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/esf-2021-pow-01>. The information contained in this publication does not necessarily reflect the official position of the European Commission. We are grateful for comments received from Sonila Danaj and Elif Naz Kayran. We also thank Amalia Solymosi for editing and layout.



in providing information about the posting of workers in Slovenia to construction companies, and a Slovenian user undertaking active in the sector of construction. The brief provides a number of recommendations on how to improve information access for all posting undertakings, regardless of their size and resources.

Directives on posting of workers recognise the importance of information provision

The Posting of Workers Directives ([Directive 96/71/EC](#), [Directive 2014/67/EU](#) and [Directive 2018/957/EU](#)) aim to strengthen and to ensure that the rights of posted workers are protected when posted abroad to provide services. The Enforcement Directive ([Directive 2014/67/EU](#)) stipulates that the reason why existing rules are not applied by the posting undertakings are often due to difficulties in accessing information on terms and conditions of employment. The Directive states that Member States should “ensure that such information is made generally available, free of charge and that effective access to it is provided, not only to service providers from other Member States, but also to the posted workers concerned” (Paragraph 18). Accordingly, Member States should establish a single national website in the most relevant languages, providing up-to-date information on the posting of workers in a transparent and accessible manner.

The amended Directive 2018/957/EU further stresses the importance of information provision and explicitly emphasises the connection between access to information and compliance with the regulations. The same Directive requires Member States to include all mandatory elements, constituting pay and the additional terms and obligations of employment related to postings on the single national website, ensuring that the information provided is accurate and up to date.

In addition, the Directive 2019/1152 on transparent and predictable working conditions in the European Union also stipulates that Member States shall notify posted workers about remuneration entitlements, posting allowances and reimbursement arrangements for travel, subsistence and accommodation costs, as well as about the single official national website (Article 7).

To be able to apply all posting rules, posting companies often need to outsource specialised services, which can be very costly

As Danaj et al. (2021) note, in order to abide by all the regulations in both sending and receiving countries, companies need to educate themselves and/or employ specialised services provided by legal, accounting or consultancy companies. However, outsourcing can be very costly and unattainable for smaller companies or the self-employed and in some cases this can serve as a deterrent to pursue the posting of workers. The following sections presents some of the challenges concerning the access and use of information outlined by the providers and users of the information channels in the sector of construction in Slovenia.

Access to information on the posting of workers in practice: lessons from the Slovenian case

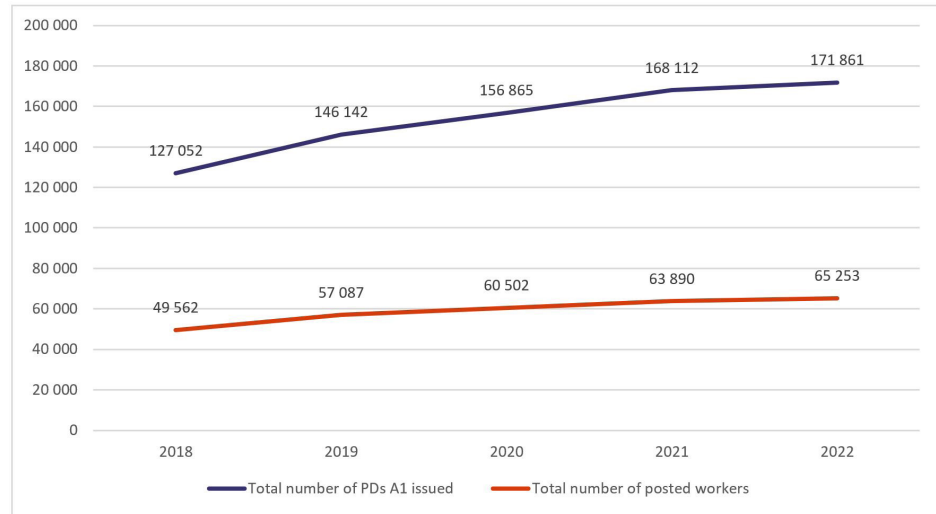
Outlining the context: Slovenian construction and posting characteristics

Slovenia has been one of the main sending Member States of posted workers in the EU

The number of construction companies registered in Slovenia in 2022 was 22.758, which is 11.8% of all registered companies (SiStat database). Moreover, in recent years, the construction sector has been expanding. According to Eurostat, Slovenia marked the highest annual increase in construction output in the EU in January 2023, at 26.7%. In monthly terms, Slovenia also recorded the highest increase in construction production among EU Member States in Southeast Europe (SEE), for which data is available, and the second largest in the EU, at 9.8% (Miteva, 2023). It is estimated that the Slovenian construction sector generated value added of EUR 3.7 billion in 2022, which is EUR 859 million more than in 2021. The real growth of value added in the construction industry was 10.4% (nominal growth: 30.4%). Value added in construction accounted for 7.1% of the total value added of all sectors of the economy in 2022 (6.2% in 2021), while in the EU-27 it is around 5.5%. The data on imports and exports of construction services shows that exports in 2022 amounted to just under EUR 750 million, while imports amounted to EUR 250 million, which means that Slovenia construction services added EUR 500 million net exports to Slovenia's GDP (0.9%) (European Construction Industry Federation). The total number of employed and self-employed persons in the construction sector in 2022 was 83.095, which is 10.9% of all persons in employment. This is an increase of around 13% from 2019. Most notable is the increase in the employment of third country nationals – around 30% compared to 2019. Most persons in construction work in micro (0-9 employed) and small (10-49 employed) enterprises, which present over 99% of all construction enterprises in Slovenia. Less than 1% of construction companies are medium (50-249 employed) and large (250+ employed) (SiStat database).

Slovenia has been one of the main sending Member States of posted workers in the EU, mainly to Germany and Austria. The upward trend of the posting of workers from Slovenia to other EU Member States has been persistent and continued in 2020 despite the COVID-19 pandemic. Outgoing posted workers amount to roughly 7% of total employment in Slovenia and even to some 30% of total employment in the Slovenian construction sector. The latter is the highest percentage among all Member States (Vah Jevšnik et al., 2022).

Figure 1: Posting of workers from Slovenia by the number of issued PDs A1 and the number of workers posted (2018 – 2022)



Source: own calculations based on the data provided by the Health Insurance Institute of Slovenia

The figures on the posting of persons by sector of activity are not available for the persons posted, but only for the number of PDs A1 issued. In 2021, most PDs A1 for TCNs were issued in construction, international freight transport, installation/assembly and servicing, as well as industry. The percentage was highest in the construction sector (25% of all PDs A1 issued).

Channels of information available to posting companies

The mapping of the information channels shows a strong fragmentation of information across different public and private information providers, who mainly provide information on their websites.

Posting undertakings in Slovenia can find basic information about the posting of workers on the websites of competent national authorities, i.e. Health Insurance Institute of Slovenia ([Zavod za zdravstveno zavarovanje Slovenije](#)), Ministry of Labour, Family, Social Affairs and Equal Opportunities ([Ministrstvo za delo, družino, socialne zadeve in enake možnosti](#)), and Financial Administration of the Republic of Slovenia ([Finančna uprava Republike Slovenije](#)). In the case of posting of third country nationals, very comprehensive and user-friendly information is provided on the website of the Slovenian Employment Service ([Zavod za zaposlovanje Republike Slovenije](#)), which also provides information for companies posting workers to Slovenia. Several employers' associations also provide basic information on their websites free of charge, although more detailed content often remains locked and accessible to their members only. [The single official national website on the posting of workers](#) is set up as well and includes basic information,



as well as links to other relevant websites and important contact points. However, it seems like the single national website is not visible enough as none of our interviewees were able to identify it.

Apart from the websites, other important and most useful channels of information are educational seminars, which are usually provided by the employers' associations under paywall. The problem with the seminars is that they are organised occasionally and at irregular intervals (Vah Jevšnik and Toplak, 2023).

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The mapping exercise shows that the information provided, in addition to being fragmented across different websites and other information channels, is in most cases basic and does not provide detailed, step-by-step instructions and country-specific regulations that need to be followed when posting workers abroad. The employers try to overcome this lack of information by contacting the national authorities and employers' associations via e-mail or phone, but our interviewees noted that often the information providers do not have the answers themselves. This is especially the case when the request for information refers to the sector-specific and country-specific regulations. Despite the fact that basic information about the rules and regulations concerning posting can eventually be found on websites or obtained via email or phone by contacting national authorities or social partners, the process can be very time-consuming and frustrating due to the fragmentation of information across different channels of information (for a discussion on atomisation and fragmentation of information on the posting of workers see Kayran et al. (2023) and Moran and Mýtna Kureková (2023)).

Posting undertakings with more resources have better access to relevant and accurate information

The interviewees stated that smaller companies and the self-employed with less financial resources to outsource legal, accounting or advisory services and/or without support provided by legal or human resources (HR) departments often resort to acquiring information via phone, hoping to receive all required information from one contact source. In Slovenia, acquiring information in the verbal form is still a preferred channel of information for many information users. Unfortunately, national and regional authorities that provide information free of charge are also only specialised in specific issues concerning the posting of workers. For example, a representative of the authority that issues PDs A1 is able to answer the question on the possibility of posting under different articles of the Regulation No 883/2004 on the coordination of social security systems,² but they cannot answer any questions on the regulations and administrative procedures regarding social

² Posting undertakings often prefer to post workers under the Article 13 of the Regulation (EC) No 883/2004, because that exempts them from the strict provisions and exclusionary criteria set by the Transnational Provision of Services Act (Official Gazette No. 10/17, 119/21 and 40/23), which only regulates posting of workers under Article 12.



security provisions in the destination countries. Representatives of the tax administration can provide information about payroll accounting, but are not familiar with collective agreements, parity funds, or minimal wages in the destination countries. Most information from one source can be obtained from the representatives of employers' associations that provide services to their members, but often they are themselves struggling with obtaining specific information on time, especially if posting is done to less popular destinations.

Detailed sector-specific and country-specific information is often difficult to obtain and required significant effort and perseverance

The interviewees, therefore, agreed that detailed sector-specific and country-specific information relevant for individual companies is often difficult to obtain and requires significant effort and perseverance. The challenges of posting undertakings, however, vary according to the size and the resources of the company, as well as their previous experience with the posting of workers. Larger companies with their own HR, legal and accounting services that attended (sporadically organised, and therefore, not readily available) educational seminars are more informed and need less information from the competent national authorities and social partners than smaller companies or the self-employed. They had also created a network of people to contact (in Slovenia and abroad) in case of any ambiguities and are, therefore, able to readily identify contact persons for clearing up any uncertainties.

The challenges of posting undertakings vary according to their size, resources and previous experience with the posting of workers

The interviewee representing a large company stated that those companies that significantly contribute to the Slovenian economy are usually also involved in the social dialogue, be it directly or through their employers' association representatives. They are, therefore, informed about any new regulations, upcoming changes in legislation or bureaucratic procedures before they come into force. They have the opportunity to object or lobby for amendments based on their previous experience with the posting and good financial standing. This is a major advantage point compared to lower-income companies and the self-employed. Bigger companies or companies with more financial resources are also able to buy information or services from the Slovenian companies offering accounting and legal assistance, which saves them the time and hassle of trying to figure out how to come about it themselves. Outsourcing the well-informed services from other firms means that regulations will be respected and that any inadvertent breaches of legislation will be avoided.

Finally, the financial ability to purchase advising services abroad is an important advantage. According to our interviewees, it is most beneficial to hire advisers in the destination countries, especially in cases where legislation is not easily accessible or is in a language that posting undertakings are not familiar with. In order to ensure compliance with all country-specific regulations and avoid being fined due to lack of knowledge and awareness about legal as well as administrative specificities it is, useful to obtain advice from foreign competent advising agencies.



Another advantage of such outsourcing is the fact that information is supplied immediately or in a very short period of time. Representatives of the employers' associations confirmed that specialised foreign private agencies often outdo them in terms of the timely provision of information.

The interviewees agreed that smaller companies with limited financial resources and the self-employed are less likely to be able to afford the cost of foreign advisors. Due to the lack of readily available information they may resort to finding information on social media networks, such as Facebook groups, where company owners or the self-employed post their experience with the posting of workers and offer advice on the topic. This raises the issue of credibility and lack of accountability of the source, as information may not be correct or updated and the source cannot be held accountable for any violations of law of the information users. Some construction company owners, including those whose Slovenian is not the first language, tend to reach out to their colleagues and/or fellow nationals for advice based on their personal experience.

Establishing whether information is credible can be a challenge

Establishing whether information is credible can be a challenge for some posting undertakings. Many companies without previous posting experience and prior knowledge about regulations and procedures may not recognise whether information is provided by a credible source, whether it is correct and complete. This problem was emphasised also by a representative of a large company in the context of their subcontracting. Namely, some of their subcontractors, who are mostly small companies, might not be aware of country-specific regulations and may, therefore, not be in compliance with the rules. Thus, the responsibility for maintaining good reputation abroad also includes informing the subcontractors about the applicable rules and regulations by the companies that outsource them. De Wispelaere and De Smedt (2023) argue that the accountability regarding a possible lack of access to information when infringements to the terms and conditions of employment occur should also be put on the *receiving company*.

Take-away messages and policy recommendations

To be able to apply all posting rules, posting companies often need to outsource specialised services, which only large companies with sufficient financial resources can afford.

In order to improve access to information for all posting undertakings the national authorities need to address the issue of accessibility and fragmentation of information, which is especially troublesome for smaller construction companies and/or those with less financial or HR resources required to access and correctly interpret relevant information. A national contact point for posting undertakings



would be helpful in this respect, providing reliable and complete information via e-mail and phone. According to the interviewees, providing information via phone is considered to be especially useful and efficient, as many users prefer to rely on verbal assistance. Inquiries over the phone would enable them to explain their inquiry in detail and the provider would be able to ask additional questions in order to identify the root of the problem. The national contact point should be able to provide sector-specific, and country-specific information. That would contribute to eliminating the informal exchange of information (which can be false or outdated) that is often the result of the lack of resources to employ or outsource competent staff or services.

Websites need to be regularly updated based on the feedback from smaller companies. It is important to invite them to systematically evaluate whether the information is useful and easy to understand, and does, therefore, reduce the need to outsource to agencies for assistance with interpretation of the applicable rules and regulations.

The respondents agreed that purchasing information from foreign private consulting companies regarding posting of workers in other Member States is considered to be a very efficient and speedy way of obtaining credible information. However, the problem of affordability is especially pressing for smaller, lower income companies. Frequent educational seminars provided by the employers' associations for the construction sector specifically and free of charge may contribute to the solution. The seminars would need to be organised on a regular basis, i.e. every few months on a fixed date, not sporadically and depending on the availability of funding, either in person or online. The seminars would need to offer the users the chance to ask specific questions.

Given the fact that the posting of workers in the construction sector in Slovenia has continuously been on the rise, more attention should be given to comprehensive and user-friendly information provision that benefits the posting undertakings and contributes to ensuring compliance with the applicable regulations in both sending and receiving countries.



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