



# POSTED WORKERS FROM AND TO GERMANY

## FACTS AND FIGURES

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## Abstract

The report examines the role of posted workers in Germany, their economic impact, and enforcement challenges, aiming to fill knowledge gaps through improved data analysis.

Germany remains a major destination for intra-EU posted workers, despite fluctuations due to external factors. Key sectors include construction and transport, with Poland as the main sender. While posted workers make up a small share of the workforce, their role is significant in labour-intensive industries. Recent data suggests a renewed increase in postings. The sectors road freight transport, the meat industry, live-in care and the construction industry rely on posted workers but face challenges like exploitation, weak enforcement, and regulatory gaps. While stricter laws have improved working conditions in some industries, challenges regarding working conditions persist in several industries.

Germany is also the leading sender of posted workers in the EU, with postings steadily increasing despite fluctuations. Austria, France, and Switzerland are key destinations, particularly in the services and industry sectors.

Posting rules are enforced through multiple authorities, with customs managing labour law compliance and pension insurance overseeing social security. Inspections focus on high-risk sectors but face staffing and resource challenges. Enforcement effectiveness is limited by administrative hurdles, legal constraints, and low inspection rates. Violations often involve wage breaches and documentation issues, with fines and license withdrawals as penalties.

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## Abbreviations

<b>AEntG</b>	Gesetz über zwingende Arbeitsbedingungen für grenzüberschreitend entsandte und für regelmäßig im Inland beschäftigte Arbeitnehmer und Arbeitnehmerinnen (Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany / Posted Workers Act)
<b>ArbSchG</b>	Arbeitsschutzgesetz (Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work)
<b>AÜG</b>	Arbeitnehmerüberlassungsgesetz (Act on the Provision of Temporary Workers)
<b>BA</b>	Bundesagentur für Arbeit (Federal Employment Agency)
<b>BALM</b>	Bundesamt für Logistik und Mobilität (Federal Logistics and Mobility Office)
<b>BFStrMG</b>	Bundesfernstraßenmautgesetz (German Federal Trunk Road Toll Act)
<b>BGB</b>	Bürgerliches Gesetzbuch (German Civil Code)
<b>BMAS</b>	Bundesministerium für Arbeit und Soziales (Federal Ministry of Labour and Social Affairs)
<b>BMBF</b>	Bundesministerium für Bildung und Forschung (Federal Ministry of Education and Research, since 2025 BMFTR)
<b>BMFTR</b>	Bundesministerium für Forschung, Technologie und Raumfahrt
<b>BMF</b>	Bundesministerium der Finanzen (Federal Ministry of Finance)
<b>BR</b>	Basic Regulation (EC) No. 883/2004 on the coordination of social security systems
<b>DRV</b>	Deutsche Rentenversicherung (German Pension Insurance)
<b>EC</b>	European Commission
<b>ECJ</b>	European Court of Justice
<b>EEA</b>	European Economic Area
<b>EESSI</b>	Electronic Exchange of Social Security Information
<b>ELA</b>	European Labour Authority
<b>EU</b>	European Union
<b>EU-27</b>	Belgium (BE), Bulgaria (BG), Czechia (CZ), Denmark (DK), Germany (DE), Estonia (EE), Ireland (IE), Greece (EL), Spain (ES), France (FR), Croatia (HR), Italy (IT), Cyprus (CY), Latvia (LV), Lithuania (LT), Luxembourg (LU), Hungary (HU), Malta (MT), the Netherlands (NL), Austria (AT), Poland (PL), Portugal (PT), Romania (RO), Slovenia (SI), Slovakia (SK), Finland (FI), and Sweden (SE).
<b>EU-14</b>	Belgium (BE), Denmark (DK), Germany (DE), Ireland (IE), Greece (EL), Spain (ES), France (FR), Italy (IT), Luxembourg (LU), the Netherlands (NL), Austria (AT), Portugal (PT), Finland
<b>EU-13</b>	Bulgaria (BG), Czechia (CZ), Estonia (EE), Croatia (HR), Cyprus (CY), Latvia (LV), Lithuania (LT), Hungary (HU), Malta (MT), Poland (PL), Romania (RO), Slovenia (SI),
<b>EFTA</b>	European Free Trade Association: Iceland (IS), Liechtenstein (LI), Norway (NO), and
<b>FKS</b>	Finanzkontrolle Schwarzarbeit (Financial Control of Undeclared Work)
<b>FTEs</b>	Full-Time Equivalents

<b>GSA Fleisch (Meat)</b>	Gesetz zur Sicherung von Arbeitnehmerrechten in der Fleischwirtschaft (Act to Safeguard Employee Rights in the Meat Industry)
<b>GüKG</b>	Güterkraftverkehrsgesetz (German Road Haulage Act)
<b>IMI</b>	Internal Market Information System
<b>LTC</b>	Long-term care
<b>MiLoG</b>	Mindestlohngesetz (Minimum Wage Act)
<b>NGG</b>	Gewerkschaft Nahrung-Genuss-Gaststätten (Food, Beverages and Catering Trade Union)
<b>OWiG</b>	Gesetz über Ordnungswidrigkeiten (Administrative Offenses Act)
<b>PD A1</b>	Portable Document A1: This certificate declares that the social security legislation of the issuing
<b>PWD</b>	Posting of Workers Directive (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)
<b>SchwarzArbG</b>	Schwarzarbeitsgesetz (Act to Combat Undeclared Work and Unlawful Employment)
<b>SOKA-Bau</b>	Sozialkasse der Bauwirtschaft (Social Security Fund for the Construction Industry)
<b>TAW</b>	Temporary Agency Work
<b>TCNs</b>	Third-Country Nationals
<b>TKM</b>	Million tonne-kilometres
<b>TWA</b>	Temporary Work Agency

# Executive summary

## Background and objectives

Immigration is of growing importance for the economy and welfare state in Germany. The share of foreign employees in social insurance contributions nearly doubled from 2013 to 2023. Skilled foreign workers are crucial in sectors with labour shortages and Germany's dependence on them will grow due to demographic changes.

Migrant workers, including those temporarily posted, play a significant role in labour-intensive sectors like construction, transport, logistics, homecare and meat processing. While problems and social issues have reached public attention mainly due to trade union campaigns or protest action by migrant workers themselves, poor working and social conditions as well as exploitative, often illegal practices are still “under the radar” of public attention.

This country report aims to enhance understanding of intra-EU posting of workers by addressing knowledge gaps and expanding empirical evidence through improved data collection and analysis. It seeks to provide a clearer picture of the scale, characteristics, and impacts of worker postings to Germany (*section 2.1*) and from Germany (*section 2.2*). The report also addresses enforcement of posting rules in Germany (*Chapter 3*).

## Data sources and limitations

To address the research objectives, data from the Federal Ministry for Labour and Social Affairs (BMAS) and the German Federal Pension Insurance were used. Due to limited national data availability, the database on Portable Documents A1 (PDs A1), reports on PDs A1 issued, and the EU-level collection of data from the prior notification tool were also analysed. For data on workers posted to Germany, sources also included the German EESSI IT System, and Eurostat statistics. For data on enforcement and infringements, the report uses data from German customs and information from BMAS. In addition, desk research and interviews with stakeholders were conducted.

A comparison between the different sources is not possible due to different underlying concepts and scopes. Additionally, variations in enforcement and PD A1 issuance, potential underreporting, inconsistencies within the databases, classification challenges, varying data provision of Member States, and procedural requirements lead to limitations when interpreting the data. Furthermore, data on enforcement does not allow for comparisons over time and distinction by type of inspection.

## Posting of workers to Germany

Germany plays a significant role in the intra-EU posting of workers. Comparing data over the years shows notable impacts from external factors such as the COVID-19 pandemic and changes in reporting practices. According to data from the Minimum Wage Registration Portal, from 2021 to 2022, the number of reported postings declined by 34% and the number of notifications by 49%, as posted drivers had to be reported in the EU Portal for road transport posting declarations since February 2022.<sup>1</sup> Regarding the issuance of PDs A1, Germany remains the main receiving country for posted workers in the EU, accounting for 15% of all postings in 2023 concerning PDs A1 received according to Art. 12 of the Basic Regulation (EC) No. 883/2004 on the coordination of social security systems (BR). The share of postings to Germany fluctuated, decreasing between 2017 and 2019, increasing in 2020 and 2021, and declining again in 2022. Data from the German Pension Insurance (DRV) indicates again an increase in postings in 2023.

Poland emerged as the primary sender of posted workers to Germany, followed by Slovenia, Austria, Slovakia, and Italy. Trends over time indicate a decline in Hungary's significance and a rise in Austria, and



Slovakia as key sending countries. Often based on bilateral agreements on social security insurance cooperation, Germany also received many posted third-country nationals (TCNs), mainly from Turkey, Russia, Serbia, Switzerland, Belarus, Ukraine, and Bosnia and Herzegovina, particularly in construction and road freight transport.

While self-employed posted workers constitute only a small share of the overall number of workers posted to Germany, about 90% of PDs A1 are issued for incoming employed posted workers.

Temporary agency work is relevant for temporary employment as hiring companies must apply collective agreement conditions to temporary agency workers. In 2022, posting notifications through temporary work agencies (TWA) accounted for 6.9% of all notifications in the German prior declaration tool, and in 2023, 5.1% of PDs A1 received according to Art. 12 of the BR by Germany were for activities in the temporary agency work sector.

Regarding sectoral distribution, in 2023, Germany received 68% of PDs A1 according to Art. 12 BR in the industry and construction sector, 31% in the service sector, and 1.2% in agriculture, hunting, and fishing. According to data from the Minimum Wage Registration Portal, the construction sector accounted for 52% of notifications and 63% of postings in 2022. The German Pension Insurance data also highlights the prominence of specialised construction activities and manufacturing sectors.

While in 2022, posted workers only made up 1.5% of the total employed persons in Germany, a decrease compared to previous years, the share of posted workers varies by sector, with the construction sector for example seeing a slight increase from 9.9% in 2021 to 10.2% in 2022.

## Sectoral case studies

This report includes a more in-depth overview of quantitative but also qualitative evidence of four sectors in Germany in which companies have been strongly engaged in recruiting posted workers.

The **road freight transport** sector faces significant challenges in cross-border labour mobility, including social dumping and exploitation of drivers, which new EU provisions aim to address by ensuring fair wages and working conditions, though enforcement remains weak due to complex EU legislation and persisting loopholes. As in other Western European countries, international road freight transport in Germany relies heavily on foreign drivers, particularly from Poland, Lithuania, Romania and Bulgaria, who are classified as posted workers under EU regulations. A marked recent feature of the sector in recent years has been the strong increase of drivers from non-EU third countries which are often recruited by labour agencies or other types of intermediaries.

The German **meat industry** has historically relied on posted workers from Central and Eastern Europe to reduce costs, but this practice has declined due to rising social insurance costs, new minimum wage laws, and regulatory changes. The “*Act to Safeguard Employee Rights in the Meat Industry*” (GSA Fleisch (Meat) Law), amended in 2021, introduced stricter regulations to improve working conditions, limit the use of external personnel, and ensure compliance with labour laws, addressing persistent issues of poor working conditions and exploitation. Through the drastic restriction of subcontracting indirect employment via service contracts, this law has led to improved enforcement of workers' rights through greater contract transparency, better compliance by companies, and easier inspections. However, challenges remain, such as the complexity of checking temporary agency work compliance and the transfer of responsibility for staff accommodation to private rental contracts.

The demand for home care in Germany is growing due to an ageing population, with many families relying on predominantly Eastern European **live-in caregivers**. However, the sector is plagued by irregular and illegal employment, high turnover rates, and a complex legal framework that often favours informal work. Most live-in caregivers are posted workers or bogus self-employed, facing poor working conditions and

limited legal protection. Despite significant emotional strain of caregivers' work, agencies often neglect their safety and well-being, and there is a lack of effective inspection and control of working conditions.

Germany is the main recipient of posted workers in the EU **construction sector**, with a significant number coming from Poland, Slovakia, Slovenia, and Croatia. In the German construction sector, around 10% of all employees were estimated to be posted workers. The sector faces challenges such as strong competition based on labour costs, high prevalence of subcontracting, and various abusive practices like bogus self-employment and illegal employment of TCNs. Efforts to address these issues include improving data sharing, digitalisation, and cross-border collaboration to better identify and sanction illegal practices.

### **Posting of workers from Germany**

Considering the number of PDs A1 issued, Germany is the main sending country of posted workers in the EU, issuing over 2 million PDs A1 in 2023, with 87% under Article 12 Basic Regulation (BR). The number of PDs A1 issued has fluctuated due to factors like the COVID-19 pandemic but has generally increased significantly. In 2023, the total number of PDs A1 issued accounted for 4.2% of the German workforce.<sup>1</sup> It can be assumed that fluctuations in the number of A1 data are also due to the introduction of new rules (e.g. obligations for employers to make applications electronically) and more intensive guidance on rules and obligations by public authorities and social security institutions.

In 2023, Austria was the main receiving country for PDs A1 issued by Germany, accounting for 15.1%, followed by France and Switzerland. Austria became the main receiving country in 2020, replacing the Netherlands. Also looking at the information given in the prior declaration tools, in 2022, Austria and France were the top destinations. Germany mainly posts TCNs from Bosnia and Herzegovina, Turkey, and Serbia to Austria, France, and the Netherlands.

In 2023, around 1.5 million PDs A1 issued by Germany under Article 12 were attributed to specific sectors, with 51% in the services sector and 44% in the industry sector. The main receiving countries for industry sector postings were Austria, Iceland, and Switzerland, while Austria, Spain, and Iceland were key destinations for services sector postings. TEAs accounted for a small percentage (0.9%) of PDs A1 issued, with Austria, the Netherlands, France, and Spain being the main receiving countries.

In 2023, the average duration of PDs A1 according to Art. 12 BR issued by Germany increased to 39 days, with the longest postings to Liechtenstein and the shortest to Czechia and Romania. The total average duration per person also rose to 69 days, with Liechtenstein having the highest with 182 days. This marks a significant increase from 2022, where the average period per PD A4 was 21 days and the average duration per person was 35 days.

### **Enforcement of posting rules**

The enforcement of posting rules in Germany involves various authorities depending on the subject of control. Generally, the German Pension Insurance (DRV) handling social security rules is responsible for the PD A1. The German Customs Authority (*Zollbehörde*) with its Financial Control of Undeclared Work (FKS) is responsible for processing the notifications of posted workers and the enforcement of working conditions, in particular regarding remuneration. Occupational health and safety authorities of the federal states are responsible for the enforcement of working conditions with regard to health and safety. Additionally, the Federal Office for Logistics and Mobility (BALM) carries out road checks on driving times and resting periods in road transport ensuring safety and compliance. Various bodies, including trade supervisory offices and employers' liability insurance associations, are involved in inspections.

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<sup>1</sup> According to comments from the BMAS, the high number of PDs A1 issued might be misleading as it does not necessarily correlate with the actual number of persons posted. In case of posting from Germany, rather the opposite is likely as a large share of PDs A1 are issued for the same worker due to postings to several Member States and/or recurring postings.

The German Customs Authority is the main body enforcing posting rules, with officers having strong executive powers and the same authority as police in prosecuting offences. They cooperate with various other bodies, including the police, depending on the inspection's purpose. The FKS unit, with 9,200 officers, though, the enforcement of posting rules is only a minor part of their control activities, handles a broad range of compliance checks, but faces staffing challenges due to labour shortages and training capacity issues.

FKS inspections in Germany focus on social security registration, work permits, minimum working conditions, and exploitative practices, particularly in high-risk sectors. The emphasis has shifted to quality, targeting organised violations through detailed document reviews. The COVID-19 pandemic further challenged operations. In 2023, inspections were generally lower than in 2019, except in the care sector and guard and security services. The low inspection rate is compounded by public prosecutor capacity issues and legal requirements. Enforcement of PDs A1 and occupational health and safety regulations for posted workers is hindered by late applications, industry classification errors, and insufficient multilingual communication.

The FKS distinguishes between administrative offenses, such as withholding minimum wage or not keeping time records, and criminal offenses. In 2022, most administrative offense proceedings were initiated due to violations related to minimum wage and working conditions in the main or ancillary building industry, facility cleaning services, and the electrical trade. Additionally, offenses against the obligation to keep records and the readiness of documents were significant factors. In 2022, Germany identified 1 454 cases of fraud or error related to PDs A1 for workers from Germany as sending country. As a receiving country, Germany contested 1 952 PDs A1 in 2021.

Violations of the Posted Workers Act (AEntG) can result in fines, withdrawal of licenses, or imprisonment. The number of settled administrative offense proceedings decreased between 2019 and 2022, with the main sectors being the building industry, facility cleaning services, and electrical trade. The share of proceedings settled with a fine notice decreased, while terminations increased. Recovery of unpaid wages must be pursued by individual employees through civil law disputes. In 2023, Germany requested the withdrawal of 655 PDs A1 as a sanction.

### **Validation of the national report**

As regards validating and consolidating this report, main results of the national analysis as arising from this report were presented in a webinar with national and international stakeholders and experts in the context of a webinar that was held on 11 July 2025. Comments and suggestions of participants were considered in the context of consolidating this report.

Furthermore, written comments to a pre-final version of this report were received from the Ministries of Labour, BMAS, the Ministry of Finance, BMF as well as the social security fund for the construction industry, SOKA BAU in Germany. The comments and suggestions were taken into account and made an important contribution to the validation of this report. We would therefore like to express our special thanks to those institutions and the experts involved in the review.

# Zusammenfassung

## Hintergrund und Ziele

Die Einwanderung gewinnt für die Wirtschaft und den Sozialstaat in Deutschland zunehmend an Bedeutung. Der Anteil ausländischer Arbeitnehmer an den Sozialversicherungsbeiträgen hat sich von 2013 bis 2023 fast verdoppelt. Qualifizierte ausländische Arbeitskräfte sind in Branchen mit Arbeitskräftemangel unverzichtbar, und aufgrund des demografischen Wandels wird Deutschlands Abhängigkeit von ihnen weiter zunehmen.

Wanderarbeitnehmer:innen, einschließlich der befristet entsandten, spielen eine wichtige Rolle in arbeitsintensiven Branchen wie dem Baugewerbe, Transport und Logistik, der häuslichen Pflege oder der industriellen Fleischverarbeitung. Wenngleich Probleme und soziale Fragen vor allem dank gewerkschaftlicher Kampagnen und Protestaktionen immer wieder an die Öffentlichkeit gelangt sind, befinden sich die Arbeits- und Sozialbedingungen, einschließlich oftmals illegaler Praktiken zumeist “unterhalb des Radars“ der öffentlichen Wahrnehmung und politischer Debatten.

Dieser Länderbericht zielt darauf ab, die Kenntnis und das Verständnis über die Entsendung von Arbeitnehmenden zu verbessern, indem Wissenslücken geschlossen und die empirischen Erkenntnisse durch verbesserte Datenerfassung und -analyse erweitert werden. Er soll ein klareres Bild vom Umfang, Merkmalen und Auswirkungen der Entsendung von Arbeitnehmenden nach Deutschland (Kapitel 2.1) und aus Deutschland heraus (Kapitel 2.2) vermitteln. Der Bericht befasst sich auch mit der Durchsetzung der Entsendevorschriften in Deutschland (Kapitel 3).

## Datenquellen und deren Einschränkungen

Zur Beantwortung der Forschungsfragen wurden Daten des Bundesministeriums für Arbeit und Soziales (BMAS) und der Deutschen Rentenversicherung Bund verwendet. Aufgrund der begrenzten Verfügbarkeit von Daten auf nationaler Ebene wurde auch die Datenbank der A1-Dokumente, Berichte über ausgestellte A1-Dokumente und die auf EU-Ebene gesammelten Daten über Entsendemeldungen ausgewertet. Für Daten über nach Deutschland entsandte Arbeitnehmende wurden auch das deutsche EESSI-IT-System und Eurostat-Statistiken herangezogen. Mit Blick auf Daten zur Durchsetzung, Verstößen und Sanktionen basiert dieser Bericht im Wesentlichen auf Daten des deutschen Zolls und Informationen, die durch das BMAS bereitgestellt wurden. Darüber hinaus flossen Informationen aus Sekundäranalysen und Interviews mit fachkundigen Stellen in den Bericht ein.

Ein Vergleich zwischen den verschiedenen Quellen ist aufgrund der unterschiedlichen zugrunde liegenden methodisch-analytischen Konzepte und Geltungsbereiche nicht möglich. Außerdem führen Unterschiede bei der Durchsetzung und der Ausstellung von PD A1 zu einer Untererfassung und Inkonsistenzen innerhalb der Datenbanken, Klassifizierungsprobleme, unterschiedliche Datenbereitstellung in den Mitgliedstaaten und Verfahrensanforderungen zu Einschränkungen bei der Interpretation der Daten. Zudem lassen die Daten zur Durchsetzung keine Vergleiche im Zeitverlauf und keine Unterscheidung nach Art und Gegenstand der Kontrollen zu.

## Entsendung von Arbeitnehmenden nach Deutschland

Deutschland spielt eine wichtige Rolle bei der Entsendung von Arbeitnehmenden innerhalb der EU. Ein Vergleich der Daten über die Jahre hinweg zeigt, dass externe Faktoren wie die COVID-19-Pandemie und Änderungen in der Meldepraxis erhebliche Auswirkungen haben. Daten über Entsendemeldungen des Mindestlohn Meldeportals zufolge ging die Zahl der gemeldeten Entsendungen im Jahr 2022 um 34 %

und die Zahl der Meldungen um 49 % gegenüber 2021 zurück. Dieser Rückgang resultiert jedoch wesentlich daraus, dass entsandte Fahrer:innen seit Februar 2022 im EU-Portal für Entsendungserklärungen im Straßenverkehr gemeldet werden.<sup>2</sup>

Was die Ausstellung von PD A1 betrifft, so bleibt Deutschland mit 15% aller Entsendungen (basierend auf PD A1, die unter Artikel 12 der Verordnung (EG) 883/2004 (VO) ausgestellt wurden) im Jahr 2023 das wichtigste Aufnahmeland für entsandte Arbeitnehmende in der EU. Entsprechend der Zahl der ausgestellten PD A1 Dokumente war der Anteil der Entsendungen nach Deutschland zwischen 2017 und 2019 rückläufig, stieg in den Jahren 2020 und 2021 an und ging im Jahr 2022 wieder zurück. Daten der Deutschen Rentenversicherung (DRV) deuten auf einen erneuten Anstieg der Entsendungen im Jahr 2023 hin.

Polen wurde zum wichtigsten Entsendeland von Arbeitnehmenden nach Deutschland, gefolgt von Slowenien, Österreich, der Slowakei und Italien. Die Entwicklung zeigt einen Rückgang der Bedeutung Ungarns und einen Bedeutungszuwachs von Österreich und der Slowakei als wichtige Entsendeländer. Oftmals basierend auf bilateralen Kooperationsabkommen im Bereich der Sozialversicherung ist Deutschland auch Ziel vieler entsandter Drittstaatsangehörige, hauptsächlich aus der Türkei, Russland, Serbien, der Schweiz, Weißrussland, der Ukraine und Bosnien und Herzegowina, insbesondere im Baugewerbe und im Straßengüterverkehr.

Selbstständige entsandte Personen machen nur einen geringen Anteil an der Gesamtzahl der Entsendeten in Deutschland aus. Etwa 90 % der PD A1 werden 2023 für entsandte Arbeitnehmende ausgestellt.

Arbeitnehmerüberlassung ist relevant, da die entleihenden Unternehmen tarifvertragliche Bedingungen auf Leiharbeiter anwenden müssen. Im Jahr 2022 machten Entsendungsmeldungen über Leiharbeitsunternehmen 6,9 % aller Meldungen im deutschen Mindestlohnmeldeportal aus. 5,3 % der in Deutschland eingegangenen PD A1 Anmeldungen gemäß Art. 12 der Verordnung (EG) Nr. 883/2004 zur Koordinierung der Systeme der sozialen Sicherheit betrafen Tätigkeiten im Bereich der Leiharbeit.

Betrachtet man die Verteilung nach Branchen, so erhielt Deutschland im Jahr 2022 69 % der PD A1 Anmeldungen gemäß Artikel 12 VO im Industrie- und Bausektor, 29,8 % im Dienstleistungssektor und 1,2 % in der Landwirtschaft. Laut Daten des Mindestlohnmeldeportals entfielen auf das Baugewerbe 52 % der Meldungen und 63 % der Entsendungen. Die Daten der Deutschen Rentenversicherung unterstreichen auch die Bedeutung Bausektors und des verarbeitenden Gewerbes.

Während der Anteil der entsandten Arbeitnehmenden an der Gesamtzahl der Erwerbstätigen in Deutschland im Jahr 2022 nur 1,5 % betrug, was einen Rückgang gegenüber den Vorjahren darstellt, variiert die Bedeutung und Dynamik von Arbeitnehmerentsendung stark zwischen den Branchen. So ist sie im Baugewerbe sehr hoch und verzeichnete einen leichter Anstieg von 9,9 % im Jahr 2021 auf 10,2 % im Jahr 2022.

## **Sektorspezifische Fallstudien**

Dieser Bericht bietet eine ausführlichere Übersicht zu quantitativen wie qualitativen Charakteristika und Besonderheiten von vier Branchen, in denen entsandte Arbeitnehmerinnen und Arbeitnehmer aus dem Ausland für deutsche Unternehmen eine besondere Rolle spielen:

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<sup>2</sup> An dieser Stelle muss erwähnt werden, dass die im Meldeportal Mindestlohn angegebene Zahl der entsandten Arbeitnehmer nicht mit der tatsächlichen Zahl der entsandten Arbeitnehmer in Deutschland übereinstimmt. Dies liegt daran, dass in Deutschland eine Registrierung im Meldetool nur für bestimmte Branchen verpflichtend ist. Darüber hinaus sind nach dem Mindestlohngesetz keine Meldungen für Arbeitnehmer erforderlich, die ein dauerhaftes Bruttomonatsgehalt von mehr als 4 319 EUR bzw. 2 879 EUR verdienen, sofern der Arbeitgeber Nachweise über diese Zahlungen in den letzten 12 Monaten vorlegen kann. Daher spiegeln die Zahlen der im Meldetool erfassten Entsendungen vor allem solche in niedrigeren Lohngruppen und nicht das Gesamtbild.



Der **Straßengüterverkehr** steht bei der grenzüberschreitenden Arbeitskräftemobilität vor großen Herausforderungen, einschließlich Sozialdumping und Ausbeutung von Fahrern, die durch neue EU-Bestimmungen angegangen werden sollen, indem faire Löhne und Arbeitsbedingungen gewährleistet werden, auch wenn die Durchsetzung auch aufgrund der komplexen europäischen Gesetzgebung nicht zufriedenstellend ist und Schlupflöcher weiterhin bestehen. Im grenzüberschreitenden Verkehr ist der Sektor in Deutschland in hohem Maße auf ausländische Fahrer angewiesen, insbesondere aus Polen, Litauen, Rumänien und Bulgarien, die nach den EU-Vorschriften als entsandte Arbeitnehmer eingestuft werden. Ein Branchentrend in den letzten Jahren war die starke Zunahme von Fahrern aus Nicht-EU-Drittländern, die häufig von Arbeitsagenturen oder anderen Vermittlern angeworben werden.

Die deutsche **Fleischindustrie** hat sich in der Vergangenheit auf die Entsendung von Arbeitnehmende aus Mittel- und Osteuropa verlassen, um Kosten zu senken. Diese Praxis ist aber aufgrund steigender Sozialversicherungskosten, neuer Mindestlohngesetze und regulatorischer Änderungen zurückgegangen. Das im Jahr 2021 geänderte „Gesetz zur Sicherung von Arbeitnehmerrechten in der Fleischwirtschaft“ (GSA Fleisch) führte strengere Vorschriften ein, um die Arbeitsbedingungen zu verbessern, den Einsatz von Fremdpersonal zu begrenzen und die Einhaltung der Arbeitsgesetze zu gewährleisten, wodurch die anhaltenden Probleme mit schlechten Arbeitsbedingungen und Ausbeutung angegangen werden. Das Gesetz hat zu einer verbesserten Durchsetzung der Arbeitnehmerrechte durch größere Vertragstransparenz, bessere Einhaltung durch die Unternehmen und einfachere Inspektionen geführt. Dennoch bleiben Herausforderungen bestehen, wie z. B. die Komplexität der Überprüfung der Einhaltung der Vorschriften für Zeitarbeit und die Übertragung der Verantwortung für die Unterbringung des Personals auf private Mietverträge.

Die Nachfrage nach **häuslicher Pflege** in Deutschland steigt aufgrund der alternden Bevölkerung, wobei viele Familien auf osteuropäische Pflegekräfte zurückgreifen. Der Sektor leidet jedoch unter irregulärer und illegaler Beschäftigung, hohen Fluktuationsraten und einem komplexen rechtlichen Rahmen, der häufig informelle Arbeit begünstigt. Die meisten „Live-in“-Pflegekräfte sind entsandte Arbeitnehmende oder Scheinselbstständige, die mit schlechten Arbeitsbedingungen und begrenztem rechtlichen Schutz konfrontiert sind. Trotz der hohen emotionalen Belastung der Beschäftigten vernachlässigen die Agenturen oft ihre Sicherheit und ihr Wohlbefinden, und es mangelt an einer wirksamen Inspektion und Kontrolle der Arbeitsbedingungen.

Deutschland ist der Hauptempfänger von entsandten Arbeitnehmenden im **Bausektor** in der EU, wobei eine beträchtliche Anzahl aus Polen, der Slowakei, Slowenien und Kroatien kommt. Im deutschen Bausektor sind schätzungsweise etwa 10% aller Beschäftigten entsandte Arbeitnehmende. Der Sektor ist mit Herausforderungen konfrontiert, wie z. B. einem starken Wettbewerb auf der Grundlage der Arbeitskosten, Untervergabeketten mit oftmals missbräuchlichen Praktiken wie Scheinselbstständigkeit oder illegale Beschäftigung von Drittstaatsangehörigen. Zu den Bemühungen, diese Probleme anzugehen, gehören die Verbesserung des Datenaustauschs, die Digitalisierung und die grenzüberschreitende Zusammenarbeit, um illegale Praktiken besser zu erkennen und zu sanktionieren.

### Entsendung von Arbeitnehmenden aus Deutschland

Betrachtet man die ausgestellten PD A1, so ist Deutschland das wichtigste Entsendeland für entsandte Arbeitnehmende in der EU. Deutschland stellte im Jahr 2023 über 2 Millionen PD A1 aus, davon 87 % im Rahmen von Artikel 12 der Verordnung (EG) 883/2004 (VO) zur Koordinierung der Systeme der sozialen Sicherheit.

Nach Angaben des BMAS könnte die hohe Zahl der ausgestellten PD A1 irreführend sein, da sie nicht unbedingt mit der tatsächlichen Zahl der entsandten Personen korreliert. Bei Entsendungen aus Deutschland ist eher das Gegenteil der Fall, da ein großer Teil der PD A1 aufgrund von Entsendungen in mehrere Mitgliedstaaten und/oder wiederholten Entsendungen für denselben Arbeitnehmer ausgestellt wird.

Die Zahl der ausgestellten PD A1 schwankte aufgrund von Faktoren wie der COVID-19-Pandemie, ist aber generell gestiegen. Im Jahr 2023 wurden 3,4 % der deutschen Arbeitskräfte auf der Grundlage von Artikel 12 VO ins Ausland entsandt. Bezogen auf die Gesamtbeschäftigung lag 2023 die Zahl der ausgestellten PD A1 Bescheinigungen bei 4,2%, wobei aber darauf hinzuweisen ist, dass die Zahl der ausgestellten PD A1 Bescheinigungen gerade im Fall der Entsendungen aus Deutschland keinesfalls mit der Zahl der tatsächlich entsendeten Arbeitnehmer:innen gleichgesetzt werden darf.<sup>3</sup>

Es ist davon auszugehen, dass Schwankungen in der Zahl der A1-Daten auch auf die Einführung neuer Vorschriften (z. B. die Verpflichtung für Arbeitgeber, Anträge elektronisch zu stellen) und eine intensivere Beratung über Vorschriften und Pflichten durch Behörden und Sozialversicherungsträger zurückzuführen sind.

Im Jahr 2023 war Österreich mit einem Anteil von 15,1 % das wichtigste Aufnahmeland für von Deutschland entsandte Arbeitnehmende, gefolgt von Frankreich und der Schweiz. Im Jahr 2020 wurde Österreich zum Hauptempfängerland und löste damit die Niederlande ab. Betrachtet man auch die Informationen in den Vorabmeldeinstrumenten, so waren Österreich und Frankreich im Jahr 2022 die wichtigsten Zielländer. Deutschland entsendet hauptsächlich Drittstaatsangehörige aus Bosnien und Herzegowina, der Türkei und Serbien nach Österreich, Frankreich und in die Niederlande.

Im Jahr 2023 wurden rund 1,5 Millionen Arbeitnehmer:innen von Deutschland nach Artikel 12 VO ausgestellte PD A1 bestimmten Branchen zugewiesen, wobei 51 % auf den Dienstleistungssektor und 44 % auf den Industriesektor entfielen. Die wichtigsten Empfängerländer für Entsendungen im Industriesektor waren Österreich, Island und die Schweiz, während Österreich, Spanien und Island die wichtigsten Zielländer für Entsendungen im Dienstleistungssektor waren. Auf Zeitarbeitsfirmen entfiel ein geringer Prozentsatz (0,9 %) der PD A1, wobei Österreich, die Niederlande, Frankreich und Spanien die wichtigsten Aufnahmeländer waren.

Im Jahr 2023 stieg die durchschnittliche Dauer der von Deutschland ausgestellten PD A1-Bescheinigungen auf 39 Tage, wobei die längsten Entsendungen nach Liechtenstein und die kürzesten in die Tschechische Republik und nach Rumänien gingen. Die durchschnittliche Gesamtdauer pro Person stieg ebenfalls auf 69 Tage, wobei Liechtenstein mit 182 Tagen die höchste Dauer aufwies. Dies ist ein deutlicher Anstieg gegenüber 2022, wo die durchschnittliche Gültigkeitsdauer 21 Tage und die durchschnittliche Dauer pro Person 35 Tage betrug.

### **Durchsetzung der Entsendevorschriften**

Die Durchsetzung der Entsendungsvorschriften in Deutschland erfolgt je nach Kontrollgegenstand durch verschiedene Behörden. Generell ist die Deutsche Rentenversicherung (DRV), die für die Sozialversicherungsvorschriften zuständig ist, für das Formular PD A1 verantwortlich. Die Zollbehörde mit ihrer Finanzkontrolle Schwarzarbeit (FKS) ist für die Bearbeitung der Meldungen entsandter Arbeitnehmer und die Kontrolle der Arbeitsbedingungen, insbesondere hinsichtlich der Vergütung, zuständig. Die Arbeitsschutzbehörden der Bundesländer sind für die Durchsetzung der Arbeitsbedingungen in Bezug auf Gesundheit und Sicherheit zuständig. Darüber hinaus führt das Bundesamt für Logistik und Mobilität (BALM) Kontrollen zu Lenk- und Ruhezeiten im Straßenverkehr durch, um damit zur allgemeinen Verkehrssicherheit und der Einhaltung der Vorschriften zu gewährleisten. An den Kontrollen sind verschiedene Stellen beteiligt, darunter Gewerbeaufsichtsämter und Berufsgenossenschaften.

Die deutsche Zollverwaltung ist die wichtigste Behörde für die Durchsetzung der Entsendevorschriften, wobei die Beamten über starke Exekutivbefugnisse verfügen und bei der Verfolgung von Verstößen die gleichen Befugnisse wie die Polizei haben. Je nach dem Zweck der Kontrolle arbeiten sie mit verschiedenen

<sup>3</sup> Vielmehr korreliert die Zahl der ausgestellten PD A1 nicht mit der tatsächlichen Zahl der entsandten Personen. Laut Einschätzung des BMAS ist dies insbesondere bei Entsendungen aus Deutschland nicht der Fall, da ein großer Teil der PD A1 Bescheinigungen Arbeitnehmer:innen betrifft, die in mehrere Mitgliedstaaten und/oder wiederholt entsandt werden.

anderen Stellen, einschließlich der Polizei, zusammen. Die Finanzkontrolle Schwarzarbeit (FKS) mit ihren 9.200 Bediensteten, für die die Durchsetzung der Entsendevorschriften nur einen kleinen Teil ihrer Kontrolltätigkeit ausmacht, ist für ein breites Spektrum von Kontrollen zuständig. Sie hat jedoch aufgrund von Personalmangel und Ausbildungskapazitätsproblemen mit personellen Problemen zu kämpfen.

Die FKS-Kontrollen in Deutschland konzentrieren sich auf die Anmeldung zur Sozialversicherung, Arbeitserlaubnis, Mindestarbeitsbedingungen und ausbeuterische Praktiken, insbesondere in Hochrisikosektoren. Der Schwerpunkt hat sich auf die Qualität verlagert und zielt auf organisierte Verstöße durch detaillierte Dokumentenprüfungen ab. Die COVID-19 Pandemie stellte eine weitere Herausforderung für die Arbeit dar.

Im Jahr 2023 waren die Inspektionen im Allgemeinen niedriger als 2019, außer im Pflegesektor und bei Wach- und Sicherheitsdiensten. Die niedrige Inspektionsrate wird durch Kapazitätsprobleme der Staatsanwaltschaft und gesetzliche Anforderungen verstärkt. Die Prüfung der A1-Bescheinigungen und die Durchsetzung Arbeitsschutzvorschriften für entsandte Arbeitnehmer wird durch verspätete Anträge, Fehler bei der Branchenklassifizierung und unzureichende mehrsprachige Kommunikation behindert.

Die FKS unterscheidet zwischen Ordnungswidrigkeiten, wie dem Vorenthalten des Mindestlohns oder dem Nichtführen von Zeiterfassungen, und Straftatbeständen. Im Jahr 2022 wurden die meisten Ordnungswidrigkeitsverfahren wegen Verstößen gegen den Mindestlohn und die Arbeitsbedingungen im Bauhaupt- und Baunebengewerbe, bei der Gebäudereinigung und im Elektrohandwerk eingeleitet. Daneben spielten Verstöße gegen die Aufbewahrungspflicht und die Bereithaltung von Unterlagen eine große Rolle. Im Jahr 2022 wurden in Deutschland 1 454 Fälle von Betrug oder Fehlern im Zusammenhang mit PD A1-Bescheinigungen festgestellt, während 2021 keine derartigen Fälle gemeldet wurden. Als Aufnahmestaat hat Deutschland im Jahr 2021 1 952 PD A1-Bescheinigungen angefochten.

Verstöße gegen das AEntG können zu Bußgeldern, Lizenzentzug oder Freiheitsstrafen führen. Die Zahl der erledigten Ordnungswidrigkeitsverfahren ist zwischen 2019 und 2022 zurückgegangen, wobei die wichtigsten Branchen das Baugewerbe, die Gebäudereinigung und das Elektrohandwerk sind. Der Anteil der Verfahren, die mit einem Bußgeldbescheid erledigt wurden, ging zurück, während die Zahl der Verfahrensbeendigungen zunahm. Die Rückforderung nicht gezahlter Löhne muss von den einzelnen Arbeitnehmenden im Rahmen zivilrechtlicher Streitigkeiten verfolgt werden. Im Jahr 2023 hat Deutschland den Entzug von 655 PD A1-Bescheinigungen als Sanktion beantragt.

### **Validierung des nationalen Berichts**

Im Hinblick auf die Validierung und Konsolidierung dieses Berichts wurden die wichtigsten Ergebnisse der nationalen Analyse im Rahmen eines Webinars am 11. Juli 2025 mit nationalen und internationalen Interessengruppen und Experten vorgestellt und diskutiert. Die Kommentare und Vorschläge der Teilnehmer wurden bei der Konsolidierung dieses Berichts berücksichtigt.

Darüber wurden schriftliche Kommentare zu einer vorläufigen Fassung dieses Berichts vom Bundesministerium für Arbeit und Soziales (BMAS), vom Bundesministerium der Finanzen (BMF) sowie von der Sozialversicherung der Bauwirtschaft, SOKA BAU erhalten. Diese Kommentare und Vorschläge wurden bei der Erstellung des Endberichts berücksichtigt und leisteten einen wichtigen Beitrag zum Validierungsprozess. Wir möchten daher den beteiligten Institutionen und Experten unseren besonderen Dank aussprechen.



# 1 Introduction

## 1.1 The peculiarity of posted workers in the context of internalisation and diversification of the German labour market

The dependence on labour migration and foreign labourers has never been greater: the share of employees subject to social insurance contributions with a foreign nationality nearly doubled from 8.5 % in 2013 to 15.3% or 5.3 million persons in 2023 (Bundesagentur für Arbeit, 2024). A recent report of the research institute of the German employers has highlighted that the growth of employment and of national gross value added is largely driven by employees with a foreign nationality/citizenship (Pierenkemper, Semsarha, & Malin, 2024).

Skilled foreign workers and professionals are particularly urgently needed in so-called bottleneck occupations in which companies cannot fill all vacancies because the supply of skilled workers is too low to meet demand. This is the case, for example, in the field of technical research, development and application and in labour intensive sectors such as transport, logistics sector (professional drivers, parcel deliverers), warehousing, catering and sales, healthcare and nursing, and in the construction industry. In all these sectors, foreign skilled workers play an essential role in supplying the population with essential goods and services and in securing supply chains (Pierenkemper, Semsarha, & Malin, 2024).

In the future, Germany will be even more dependent on foreign skilled workers. The number of people potentially available to the labour market will steadily decline in the long term due to ongoing demographic change. Even with a rising employment rate for women and older people and an annual net immigration of 100 000 people, the labour force will fall significantly in the coming years. Only with an annual net immigration of 400 000 people will the labour supply remain almost constant until 2060. However, as many immigrants do not stay in Germany permanently, this would require an influx of 1.5 to 1.6 million people per year (Hellwagner, Söhnlein, & Weber, 2025).

Against this background, the role of posted workers in the German labour market is ambivalent and rather contradictory as regards its quantitative and qualitative dimensions. This is also related to the peculiarities of the concept of posting of workers: as a specific form of temporary labour migration and 'intra-EU labour mobility'<sup>4</sup>, very closely linked to the EU internal market and the free movement of labour and service provision. A posted worker is a worker temporarily sent by their employer to a Member State other than the one in which they normally work to carry out the provision of services. This is legally constructed as part of the employer's freedom to provide services, recognised by Article 56 TFEU. The posting of workers is regulated since 1996 by the *Posting of Workers Directive* (PWD). In response to various shortcomings in regulation (for example as regards a more efficient enforcement of legal rules or applicable wages and remuneration), the PWD was complemented in 2014 by the so-called Enforcement Directive and in 2018 by a revised Directive (Voss, Lhernould, Faioli, & Iudicone, 2016). In response to similar as well as specific problems and challenges related to posting in road transport, this sector was regulated by *lex specialis*, i.e. specific Directives and Regulation under the umbrella of two "Mobility Packages" in 2020 and 2022.

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<sup>4</sup> For a conceptualisation of posting and 'intra-EU labour mobility' see also the respective notes in the introduction of the POSTING.STAT 2.0 report on Belgium (De Smedt & De Wispelaere, 2024).

According to the most recent data compiled at EU level<sup>5</sup>, there was a total of 5.5 million PDs A1 issued reported by authorities in the EU Member States in 2023 (De Wispelaere, Smedt, & Pacolet, 2024b). Compared to other EU Member States, Germany is both the largest receiving country of posted workers as well as the main sending country.

While the overall quantitative dimension of posting of workers compared to other forms of labour migration and cross-border mobility is comparatively small, the qualitative dimension is not, in particular from the perspective of relatively higher wage countries such as Germany. The legal construct of posting from the very beginning has always been controversial due to its impact on labour-intensive sectors such as the construction sector, transport and logistics, or the meat processing industry where business practices based on the deployment of “cheap” workers from EU Member States with lower wage and social and health security levels resulted in destructive competition, based on lower wage costs and often extensive working time practices, exploitive working and social conditions, for example related to accommodation. Such impacts of posting to Germany mainly from Central and Eastern European countries and in recent years increasingly also from outside the EU (via labour agencies or letterbox companies within the EU) have very much dominated the debate of posting in the country (Lhemould, Coucheir, Fisker, Voss, & Madsen, 2016).

Quite regularly, incidences of the world of work come to the attention of the public due to precarious working conditions. When the working and living conditions of employees in the meat industry in 2020 even posed a pandemic risk amid the COVID-19 pandemic, working conditions in this sector raised broader attention - and have also been regulated by the Occupational Health and Safety Control Act that came into force in 2021. Issues relating to 24-hour care are repeatedly on the agenda, particularly regarding the employee status of caregivers. In recent years, working conditions in parcel delivery, fibre optic network expansion works, and passenger transport have increasingly been the subject of public debate, especially after trade unions and trade union initiatives such as “*Fair Mobility*” drew attention to them (Ecorys; HIVA-KU Leuven; Spark Legal and Policy Consulting; wmp consult, 2023).

In recent years, there have been repeated work stoppages and protests by truck drivers over unacceptable working conditions and withheld wages. For example, in 2023, up to 150 truck drivers gathered for several weeks at the Gräfenhausen motorway area south of Frankfurt am Main and refused to transport their freight to its destination until they were paid their outstanding wages. In all these specific cases, public outrage over unacceptable working conditions is followed by a discussion on how to better enforce legally binding rules and working conditions. This is because the problems have often been known for some time.

Of course, not all problems in the German labour market that are related to unfair competition on wages and precarious working conditions are directly resulting from posting. Unfair and problematic company practices have also been driven by legislation on temporary labour agencies, legal constructions that made it possible to outsource workers in ‘service companies’ or substitute parts of the direct workforce by cheaper subcontractors or bogus self-employed.

Nevertheless, posting of workers is not only related to labour intensive works and low pay. Posting is also happening when companies are ordering highly specialised employees to temporarily work in a foreign subsidiary or at an industrial premise or facility of a client in another country.

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5 As there is no single register or database of posted workers at EU level, monitoring of posting is done by researchers of HIVA-KU Leuven on behalf of the EU Commission and (since 2023) the European Labour Authority (ELA) based on so-called ‘prior declarations’ in the national prior declaration tools. These data are delivered by national administrations of receiving Member States through a questionnaire. It should be noted that these data have some important limitations because they only reflect the *intention* to provide services in the receiving Member State, i.e., it is not known whether these services have been provided. Therefore, the data from the prior declaration tool are complemented by other data collected at EU level based on information from the Portable Document A1. The A1 certificate is proof of the employee being socially insured in their home country. The obligation to carry this A1 certificate applies to all EU/EFTA countries. It applies to all postings, independent of its economic activity or duration, if the posting is below 24 months. It is the employer who requests these certificates for their employees. It is possible to use information gathered on these A1 certificates to describe the nature of postings taking place from a certain country. See for more details on the methodology and limitations of gathering data on posting: (European Commission, 2024a, p. 9).

This means that, while postings play a negligible role in the overall German economy<sup>6</sup>, making up approximately only about 1-1.5% of the workforce, it plays a significant role in some sectors. In 2022, about 52% of prior notifications of posting to Germany occurred in the construction sector and about 27% of notifications were related to the transport, logistics and storage sector (European Commission, 2024a, p. 48/49).

As a result, around 10% of the workforce in the German construction sector were posted workers when compared to the number of socially insured employees and even about 18% in the transport and storage sector (Albrecht, Giesing, & Rude, 2022, p. 11).

## 1.2 Objectives of this report

This country report aims to provide a better understanding of the complex dynamics of intra-EU posting of workers, addressing significant knowledge gaps and providing a deeper understanding of the phenomenon. Building on the insights and findings from the POSTING.STAT 1.0 project (IFO Institute, 2022), it aims to expand the scope of analysis to strengthen the empirical evidence base through enhanced data collection and analysis. The overarching aim is to provide a clearer picture of the scale, characteristics, and impact of intra-EU posting while assessing the effectiveness of enforcement mechanisms and the implications of legislative changes.

Firstly, the country report aims to provide a clearer picture of the *posting of workers to Germany* (section 2.1). A central question is how the number of postings has evolved over time and what factors influence these trends. Another key question is which countries send the most posted workers to Germany and how the composition of these sending countries has changed. The study also investigates the role of TCNs in postings. How significant is their presence among posted workers, and what are the main routes through which they are posted to Germany? Further questions in this context are what explains the lower share of TCNs among the total group of incoming posted workers in Germany compared to other Western European countries (such as Austria, France or Belgium). Are the available data reflecting the actual magnitude or are their other legal forms of temporary migrant work, e.g. the so-called “Vander Elst” Visas?

Employment status is another critical aspect, raising questions about the distribution between employed and self-employed posted workers, how this balance has evolved, and how it varies among different sending countries. Additionally, the research examines the impact of TWAs in the posting process, to what extent TWAs facilitate postings, and how their role has developed over time.

Furthermore, the research explores the sectoral distribution of posted workers in Germany, focusing on how different industries contribute to postings. A key question is which sectors dominate worker postings and how their significance has evolved over time. The study aims to determine the role of industry, services, and agriculture in cross-border employment and identify trends in sectoral distribution. Also, quantitative and qualitative developments in the German road transport sector, meat industry, live-in care, and German construction industry are closely looked at.

Another important question concerns the duration of postings. The research examines how long workers are typically posted to Germany and whether this duration has changed over the years. The study also investigates the overall impact of intra-EU postings on employment in Germany. How significant are posted workers compared to total employment in the country, and how does their share vary by sector? This question helps assess the role of posted workers within the broader labour market and identify sectors where they are particularly crucial.

Secondly, the study examines the number and characteristics of *workers posted from Germany* (section 2.2). It investigates how many workers are posted from Germany and how this number has evolved over

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<sup>6</sup> However, considering that the available data are based on registrations in the prior declaration tool and the fact that this is only obligatory for certain sectors, available figures and data may not reflect the overall picture and reality. See also footnote 1.

time, considering fluctuations due to external factors such as economic changes and regulatory developments. Additionally, it explores the distinction between postings under Article 12 of the Basic Regulation (EC) No. 883/2004 on the coordination of social security systems (hereinafter ‘Basic Regulation’ or BR), which applies to employed and self-employed individuals temporarily working in another Member State, and Article 13, which covers those working in multiple Member States. Another key research question concerns the profile of posted workers from Germany. The study seeks to determine which sectors of the economy contribute the most to postings and whether there are differences in the frequency of postings between employed and self-employed individuals. It also examines which countries are the primary destinations for workers posted from Germany and how these patterns have shifted over time. Furthermore, the study investigates the duration of postings, analysing how long posted workers typically remain abroad. It also explores whether the duration of postings has changed in recent years.

Thirdly, the study examines key questions regarding the **enforcement of posting rules in Germany** (*Chapter 3*). It explores which enforcement bodies are responsible for implementing these regulations. It investigates how different regulatory bodies coordinate compliance monitoring within Germany’s decentralized governance structure. Additionally, the study analyses how social inspections are conducted in the absence of a central labour inspectorate. It examines the role and powers of the Financial Control of Undeclared Work (FKS) and the challenges in unifying enforcement responsibilities. Another key question concerns the number of inspectors involved in enforcing posting rules, investigating why precise data is unavailable and how workforce constraints affect enforcement efficiency. Furthermore, the study explores the extent of inspections related to posting rules. It asks how inspections are conducted, what types of violations are checked, and how the shift from random to targeted inspections impacts compliance monitoring. Finally, the study examines administrative and criminal offenses and the consequences of these violations.

### 1.3 Research methodology and data

To address these research questions, data from the Federal Ministry for Labour and Social Affairs (BMAS) and the German Federal Pension Insurance are used. Due to limited availability of data at the national level<sup>7</sup>, the reports on PDs A1 issued and the EU level collection of data from the prior notification tool are analysed for this report. The data sources and their limitations are discussed below.

In addition to the data sources consulted stated below, a desk research and complementary interviews with stakeholder from the Federal Ministry of Labour and Social Affairs (BMAS), the German Pension Insurance (DRV) and the holiday and wage equalisation fund and the supplementary pension fund of the construction industry SOKA-BAU were carried out.

Data sources used for this report are:

For data on posting of workers to Germany (for Germany as a receiving country, see *section 2.1*):

- The collection of data from the prior declaration tools at EU-level for reference years 2019 - 2022<sup>8</sup>
  - Number of notifications and postings registered in the national declaration tools, 2019-2022
    - breakdown by sending Member State
    - breakdown by sector of activity

<sup>7</sup> This was already highlighted in the country report on Germany in the context of the POSTING.STAT 1.0 project. See IFO Institute 2022, p. 15

<sup>8</sup> It should be mentioned here that after the completion of the data analysis of this report, data for 2023 were published by the European Commission. They are available here: [https://employment-social-affairs.ec.europa.eu/posting-workers-collection-data-prior-declaration-tools-reference-year-2023\\_en](https://employment-social-affairs.ec.europa.eu/posting-workers-collection-data-prior-declaration-tools-reference-year-2023_en)

- The official A1 database provided by the European Commission on inflows and outflows of posted workers for EU Member States for data until 2023 completed by the reports on PDs A1 issued
  - Total number of PDs A1 received by Germany according to Article 12 BR, 2010 – 2023
  - Total number of PDs A1 issued according to Article 12 BR by sending Member State, breakdown by receiving Member State, 2012 - 2023
- Data registered in the German EESSI IT System on incoming posted workers provided by the German Federal Pension Insurance (DRV Bund)
  - Number of PDs A1 according to Art. 12.1 and 12.2 by issuing country (second semester 2019 to first semester 2024)
- Eurostat statistics on “Trips by detailed country/world region of main destination”

Additional sectoral data was taken from Eurostat for road freight transport for the road freight sector and from the SOKA BAU website for the construction sector.

For data on posting of workers from Germany to other country (Germany as a sending country, see *section 2.2*):

- Information provided by the Federal Ministry of Labour and Social Affairs (BMAS) on PDs A1 issued in 2023
  - Number of PDs A1 issued by Germany according to Regulation (EC) No 883/2004 on the coordination of social security systems (according to Art.12 by receiving country, status (employed/self-employed), and sector of activity, according to Art.13 by status of the holder)
- The official A1 database provided by the European Commission on inflows and outflows of posted workers for EU Member States for data until 2023 completed by the reports on PDs A1 issued
  - Total number of PDs A1 issued by Germany, 2012 – 2023
  - Total number of PDs A1 issued according to Art. 12 BR, 2012 – 2023
    - by sending Member State, breakdown by receiving Member State
    - employed or self-employed posted workers
    - by sending Member State, by sector of activity
    - average duration of the posting (number of days)
- The collection of data from the prior declaration tools at EU level for data 2019-2022
  - Number of persons registered in the national declaration tools for whom at least one notification for one or more days has been made, breakdown by sending Member State
  - Number of notifications in the national declaration tools, breakdown by sending Member State
  - Number of postings registered in the national declaration tools, breakdown by sending Member State

Data from the Minimum Wage Registration Portal could not be used because it does not collect information on characteristics of posting companies posting persons to Germany or characteristics of the German clients of foreign posting companies.

For data on enforcement and infringements (see *Chapter 3*):

- Data provided by the German customs in response to inquiries in the German Bundestag on the working methods and investigative activities of the Financial Control Unit for Illegal Employment (2019 – 2022)
- Information provided by the Federal Ministry of Labour and Social Affairs (BMAS) on number of received PDs A1 requested to be withdrawn (2023)



One key data source in this report is the **A1 certificate database from the European Commission**, which tracks the inflow and outflow of posted workers by Member State, sector, employment type, and duration. The data for the database is complemented by data provided by the Federal Ministry of Labour and Social Affairs.

Article 12 BR covers employees posted by an employer or self-employed persons moving to another Member State to pursue similar activities. Article 13 covers those working in two or more Member States. The PD A1 (formerly the E101 certificate) confirms social security affiliation with the issuing Member State, exempting the holder from contributions in others. Issued mainly to posted workers and those working in multiple Member States, it ensures individuals are subject to only one Member State's social security laws. However, enforcement and PD A1 issuance can vary, leading to discrepancies.

The concept of 'posting' differs between PWD and the Basic Regulation on the coordination of social security systems, creating situations where individuals may qualify as posted workers under one but not the other. For example, self-employed individuals (Article 12(2)) and workers on business trips are not covered by the Directive<sup>9</sup>, but workers active in multiple Member States (Article 13) may be. If a worker is posted for more than two years, they must be insured in the host country unless an agreement under Article 16 exempts them. As indicated in the A1 database, there is uncertainty about whether the number of PDs A1 issued accurately reflects the actual number of postings. Despite the obligation to notify authorities in advance, some workers begin working in another Member State without prior notice or a PD A1 (European Commission, 2024a). Stricter enforcement in countries like France and Austria has improved compliance, though some underreporting still occurs (De Wispelaere, De Smedt, & Pacolet, 2023b). In Germany, as the host Member State, there is no national regulation that obliges the sending companies to apply for or present the A1 certificate before posting.

Furthermore, there are some slight inconsistencies within the database as the totals reported by administrations under different questions are diverging.<sup>10</sup>

Also, Germany only has been reporting data by sector and on the number of unique persons involved and on the average validity period of the PDs A1 since 2020. Consequently, comparisons over time are not possible.

An additional source of information is the data provided to the **German Pension Insurance (DRV)** through the Electronic Exchange of Social Security Information (EESSI) on PDs A1 issued for persons posted to Germany. The German Pension Insurance is legally obliged to delete the data from the system after five years, so that it can then no longer be differentiated according to legal basis (e.g. Art. 12). The DRV attempts a one-time classification of reported domestic companies by industries. However, currently, this is successful in only about 13% of cases, often due to reasons like no German company being reported. Only notifications about A1 certificates of posting received by the DRV can be recorded in the A1 database, relying on cooperation from foreign institutions. After the launch of the Electronic Exchange of Social Security Information system in 2019/2020, not all Member States were fully prepared to transmit these notifications via EESSI which should be implemented by all Members States by the end of December

9 As far as the coordination of social security is concerned, Regulations (EC) No 883/2004 and 987/2009 provide that, for every cross-border work-related activity (including 'business trips') the employer, or any self-employed person concerned, is under the obligation to notify the competent (home) Member State, whenever possible in advance, and obtain a Portable Document A1. That obligation covers any economic activity, even if only of short duration. These Regulations do not provide for any exceptions for business trips either.

10 For example, in 2022, under the questions the "total number of PDs A1 issued by sending Member State, breakdown by type", the "total number of PDs A1 issued according to Article 12 BR by sending Member State" and the "total number of PDs A1 issued according to Article 12 BR by sending Member State, employed or self-employed posted workers" state a number of 1,407,045 PDs A1 issued according to Article 12 BR by Germany and 3,013,841, while under the question "total number of PDs A1 issued according to Article 12 BR by sending Member State, breakdown by receiving Member State", 1,443,516 for Germany and 3,045,254 in total are indicated

2025.<sup>11</sup> This may explain discrepancies with the data from the European A1 database. However, the difference between the figures reported by the DRV and those in the EU-level database should have significantly decreased in recent months. The A1 database may also contain several certificates for one person if the posting period is different. The figures provided are therefore the issued notification of A1 certificates.

Data provided by the German Pension Insurance to a limited extent provides information of the sectoral attribution of the client companies in Germany. Still, there is no information on the number or size of the companies as the sector is indicated in relation to the PDs A1 issued with one company most likely requesting more than one PD A1.

The **Minimum Wage Registration Portal** is Germany's **prior declaration tool** for employers established abroad posting workers in certain industries. Notifications are required under the *Minimum Wage Act* (MiLoG), *Posted Workers Act* (AEntG), and *Temporary Employment Act* (AÜG) to ensure compliance with minimum employment conditions. Employers must report postings inter alia in sectors prone to undeclared work, such as construction, transport, security, catering, and cleaning (German Customs, n.d.).

The data from the Minimum Wage Registration Portal does only partially reflect the reality of posting in Germany because it only includes sectors where a notification obligation was regulated, e.g. high-risk sectors.<sup>12</sup> Furthermore, under the Minimum Wage Act, notifications are not required for employees earning a sustained gross monthly salary above EUR 4 319 or EUR 2 879 provided that the employer can submit evidence of such payment over the past 12 months.

Even though persons sent from companies established outside of the EU-27 are covered, self-employed are not (De Wispelaere, De Smedt, & Pacolet, 2024, p. 16). As data directly from the Minimum Wage Registration Portal could not be used, this country report refers to the reports on prior declaration tools at EU level. When citing data from prior declaration tools, it is crucial to acknowledge several limitations. The data collected aimed to cover posted workers, notifications, and postings, but some Member States provided only partial information. For example, for Germany, information on the nationality of posted workers is missing. Additionally, the reported figures indicate the intention to provide services rather than confirming actual service provision.

Comparing these data with figures from PDs A1 is difficult due to legal and procedural differences. The Posting of Workers Directive and Regulation 883/2004 define posted workers differently, covering distinct activities and personal categories (De Wispelaere, De Smedt, & Pacolet, 2024, p. 20). Also, as of 2 February 2022, the Minimum Wage Registration Portal may no longer be used in cases of posting of drivers in road transport falling within the scope of Directive 2020/1057<sup>13</sup>, as from then on, the EU Portal for road transport posting declarations should be used by all Member States.

Furthermore, while data from the A1 database and the German Pension Insurance include self-employed, the Minimum Wage Registration Portal does not.

Finally, also country coverage differs between the different sources. While the EU-27, EFTA and UK are covered by the data from the German Pension Insurance (DRV) from a sending perspective to Germany and from a sending and receiving perspective in the A1 database, data in the EU reports on data

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11 See also [https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/digitalisation-social-security-coordination/electronic-exchange-social-security-information-eessi\\_en](https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/digitalisation-social-security-coordination/electronic-exchange-social-security-information-eessi_en), and the factsheet of the EU Commission: <https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/c72250f6-a636-4a52-86bc-ab28c1665dc8/download>.

12 Construction and dismantling of trade fairs and exhibitions, construction industry, meat industry, forestry, catering and accommodation industry, building cleaning industry, passenger transportation, prostitution trade, show business, freight forwarding, transportation and related logistics industry, security and safety services.

13 Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012, <http://data.europa.eu/eli/dir/2020/1057/oj>

from prior declaration tools includes the EU-27 from a receiving perspective and EU-27, EFTA and other extra-EU countries as sending countries.

Regarding **data on enforcement of posting rules in Germany**, some data is provided by German Customs Administration on inspections and proceedings of the special customs unit on Financial Control of Undeclared Work (FKS, *Finanzkontrolle Schwarzarbeit*). However, there is no data available on inspectors and inspections carried out by the German Customs Administrations broken down to those only related to the enforcement of the posting rules. This is due to the broad and comprehensive inspection mission of Customs Administration.<sup>14</sup> As there are no officers that are exclusively involved in control activities related to posting, it is not possible to provide any data here. There is only data for the overall number of officers involved in issues of undeclared and unlawful work or criminal offenses.

When it comes to infringements and sanctions, data in this report are taken from the answer of the Government to an inquiry issued by a member of the German parliament<sup>15</sup> including information on initiated administrative offense proceedings per year, sector and the related paragraph of the Posted Workers Act (AEntG).

A further restriction of data availability relates to developments over time. A comparison of the figures for 2022 with those for previous years is only meaningful to a limited extent. For example, numerous sectors were particularly affected by the measures taken to contain the COVID-19 pandemic, which had an impact on the activities of the FKS and the associated work results. In addition, the increased effort required to protect employees and staff absences due to quarantine measures also influenced the performance of the FKS' tasks.

Regarding the recording of sectors in the statistics of the FKS, it should be noted that this is subject to ongoing observation and further development. This includes findings from the risk management of the FKS, legal changes and developments in the collective bargaining landscape. As a result, the scope of the sectors reported in the FKS statistics for 2022 differs from those of 2019, for example. This may also result in different records of identical sectors for a transitional period, but this does not lead to double counting. In terms of the number of investigations initiated, the FKS statistics do not distinguish between proceedings that were preceded by an employer audit and proceedings that were initiated, for example, on the basis of specific information or other findings (Deutscher Bundestag, 2023b).

Additionally, the available data on violations of the Posted Workers Act<sup>16</sup>, which implements Directive 2018/957/EU, does not distinguish between offenses committed by German-based and those by foreign-based companies (see also: IFO Institute, 2022). The law applies not only to posted workers but also to those regularly employed in Germany, requiring compliance from all companies operating in the country. Consequently, data on infringements and sanctions does not necessarily cover only posted workers but also others regularly employed in Germany.

<sup>14</sup> The catalogue of rules is defined in §2 of the SchwarzArbG (Undeclared Work) Act) and not only includes provisions of the posting of workers act but also social security obligations, obligations under the minimum wage act as well as many other issues such as residence and work permit status of foreign citizens. Therefore, the number of inspections related to posting rules cannot be indicated.

<sup>15</sup> Bundestag-Drucksache 20/6361, <https://dserver.bundestag.de/btd/20/063/2006361.pdf>

<sup>16</sup> Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (Federal Ministry of Justice and the Federal Office of Justice, [https://www.gesetze-im-internet.de/englisch\\_aentg/englisch\\_aentg.pdf](https://www.gesetze-im-internet.de/englisch_aentg/englisch_aentg.pdf)



## 2 Scale, characteristics and impact of posting

The following chapter presents data and information on postings to Germany (receiving perspective, see *section 2.1*) and from Germany (sending perspective, see *section 2.2*).

### 2.1 Posting of workers to Germany

This section focuses on quantifying the number of persons posted to Germany and describes their profile in detail (by sending country, nationality, and status) mainly based on data from the EU reports on data from national prior declaration tools, the EU database on PDs A1 as well as information provided by the German Pension Insurance DRV.

As already stated in *section 1.3*, these data have some important limitations. The A1 certificate database tracks the inflow and outflow of posted workers but contains discrepancies due to differences in enforcement, reporting inconsistencies, and potential underreporting. Additionally, the legal definitions of posting differ between the Basic Regulation and the Posting of Workers Directive, making data interpretation challenging. This is because in Germany, there is no national regulation requiring posting companies to apply for or present the A1 certificate prior to posting. According to the administrative rules, the employer must, where possible, inform the competent institution of the Member State whose legislation is applicable during employment in another Member State of this fact in advance. In exceptional cases, the employer may also inform the competent institution retrospectively. This contributes further to data gaps.

The German Pension Insurance (DRV) provided additional data, but its limitations include the legal requirement to delete records after five years, preventing long-term analysis. The classification of companies by sector is only successful in about 13% of cases due to missing or incomplete information, and the database relies on cooperation from foreign institutions for accurate reporting. While the implementation of the European electronic data exchange system (EESSI) has improved data consistency, some discrepancies with the European A1 database remain.

As noted above, the Minimum Wage Registration Portal dataset covers only data for specific sectors and below a gross monthly salary threshold. Furthermore, as of February 2022, the portal is no longer applicable for posting of drivers in road transport under Directive 2020/1057, as the EU Portal for road transport posting declarations should be used. It is important to note that drivers posted under Art. 1(3)(b) (i.e., intra-group posting) and (c) (i.e., hiring out through a temporary agency) fall outside the scope of the EU Portal and should be declared in the prior declaration tools of the receiving Member State if not exempted.

Overall, inconsistencies across data sources complicate direct comparisons. Differences exist in how sectors are classified, the coverage of sending and receiving countries, and the inclusion of self-employed workers. These limitations must be considered when interpreting the findings of this report.

#### 2.1.1. Number and characteristics of persons posted to Germany

According to data from the Minimum Wage Registration Portal, in 2022, the German prior declaration tool, as presented in the European report, 334 453 notifications (15% of all notifications) and 1 598 493 postings (43% of all postings) were reported. The number of reported postings declined by 34% and the number of notifications by 49% compared to 2021, as posted drivers were reported in the EU Portal for road transport posting declarations since February 2022 (De Wispelaere, De Smedt, & Pacolet, 2024). For details see *Table 1* below.

**Table 1. Number of postings and notifications 2019-2022, Total and transport and storage sector**

	2019	2020	2021	2022	Change 2021-2022
Total					
Notifications	639 502	617 253	656 153	334 453	-49%
Postings	2 614 958	2 409 338	2 436 241	1 598 493	-34%
Transport and storage sector					
Notifications	377 274*	383 316	414 467	93 270	-78%
Postings	1 269 073*	1 143 404	1 154 614	276 242	-76%
Total excluding transport and storage sector					
Notifications	262 228*	233 937	241 686	241 183	-0,2%
Postings	1 345 884*	1 265 934	1 281 627	1 322 251	+3%

Source: (De Wispelaere, De Smedt, & Pacolet, 2024), (2023a), (2022a), (2021a).

\* According to the Federal Ministry of Finance (BMF), a validation of these data is not possible as detailed data was only recorded from August 21, 2019 onwards.

From a point of view of social security, the number of PDs A1 issued can give an insight in the development of posting. The number of workers posted to Germany has been increasing until 2019. Due to the COVID-19 pandemic in 2020 the number has been reduced by 19% in 2020, although it increased again by 5% in 2021, by 19% up to 489 178 in 2022 and by 12% reaching 547 581 in 2023.

Based on data gathered on A1 certificates according to Art. 12 BR, Germany is the main receiving country of posted workers in the EU receiving 15% of all posted workers among Member States in 2023. The share of postings to Germany has decreased between 2017 and 2019, followed by an increase in 2020 and 2021 and again a decline in 2022 and 2023 (European Commission, 2024a; 2025)(see Table 2).

**Table 2. Inflow of posted workers to Germany according to Art. 12 BR<sup>17</sup>, 2010-2023, based on EU PD A1 database**

Receiving MS	2017	2018	2019	2020	2021	2022	2023
Germany	427 175	428 935	505 737	410 908	429 749	489 178	547 581
Total	1 730 562	1 810 754	3 206 680	2 426 979	2 199 202	3 045 254	3 581 981
%	24.7%	23.7%	15.8%	16.9%	19.5%	16.1%	15.3%

Source: A1 database (European Commission, 2024a), (European Commission, 2025)

According to data provided to the German Pension Insurance (DRV) through the Electronic Exchange of Social Security Information (EESSI), the number of PDs A1 issued for persons posted to Germany has further increased in 2023 (see Table 3 below). As explained in section 1.3 of this report, data is not comparable to the European A1 database.

Furthermore, tourism statistics, while used as a proxy for measuring incoming posted workers, have significant limitations. They encompass a broad category of business visitors and may not accurately isolate individuals involved in service trade. The data often fail to distinguish between employment and service contracts, as entry-exit records frequently classify such trips under "work" without clarification. Additionally, business and professional trips cover diverse purposes like training and conferences and

<sup>17</sup> Article 12 BR (REGULATION (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the Coordination of Social Security Systems): 1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed twenty-four months and that he is not sent to replace another person. 2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed twenty-four months.

exclude same-day visits. Also, one person may be counted multiple times for multiple trips (De Smedt & De Wispelaere, 2024). In 2023, 3.99 million business trips were carried out from another Member State to Germany for business or professional purposes, an increase by 7% compared to 2022 (3.71 million).<sup>18</sup>

**Table 3. Number of PDs A1 issued for posted workers to Germany according to Art. 12 BR, 2019-2024, based on data provided by German Pension Insurance**

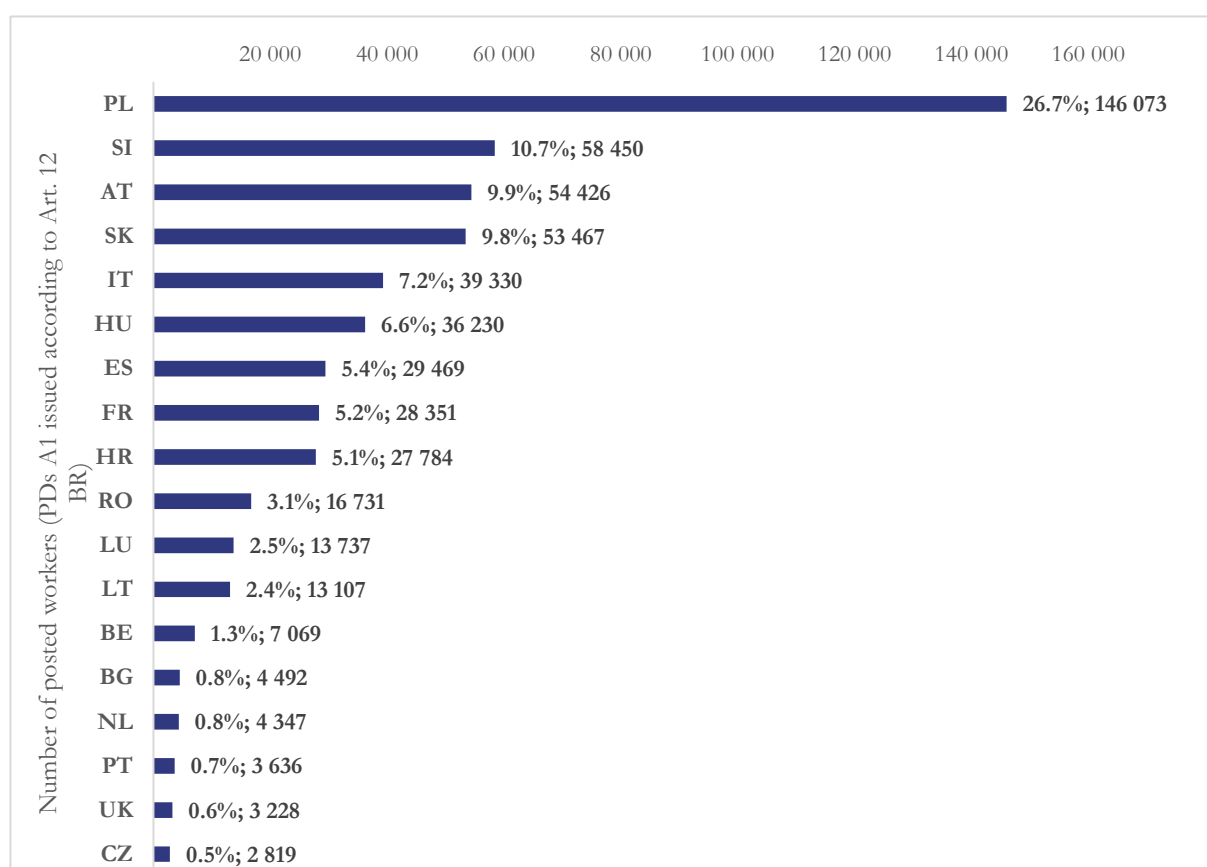
	2019 (2nd semester)	2020	2021	2022	2023	2024 (1st semester)
Art. 12.1.	39 900	142 317	221 801	340 019	459 191	234 838
Art. 12.2.	3 915	1 3637	33 743	39 890	46 089	28 344
Art. 12	43 815	155 954	255 544	379 909	505 280	263 182

Source: German Pension Insurance DRV

### Sending countries and nationalities of posted workers

Based on the PDs A1 forms and data, issued according to the European database, in 2023, the main sending country of posted workers to Germany is Poland (accounting for 26.7% of all posted workers), followed by Slovenia (accounting for 10.7% of all posted workers). The third largest group is from Austria with 9.9%, followed by Slovakia, Italy and Hungary (see *Figure 1*).

**Figure 1. Number of A1 forms for posted workers (Art. 12 BR) to Germany by sending country, 2023**



Source: A1 database (European Commission, 2024a; 2025)

<sup>18</sup> Eurostat [tour\_dem\_ftw]

While Poland has remained the main sending country between 2012 and 2023, other countries gained or lost importance over time. For example, Austria- today ranking third place after Poland and Slovenia- only came in sixth place in 2012, while Hungary and Romania became less important (see *Table 4*).

**Table 4. Number of A1 forms for posted workers (Art. 12 BR) to Germany by main sending countries, 2012, 2017, 2022, 2023**

2012		2017		2022		2023	
PL	138 164	PL	114 979	PL	136 686	PL	146 073
HU	37 502	SI	71 219	SI	58 151	SI	58 450
SI	33 352	SK	42 180	SK	48 667	AT	54 426
RO	23 444	HU	34 578	AT	41 287	SK	53 467
FR	20 051	HR	27 659	HR	33 808	IT	39 330
AT	19 015	AT	24 153	IT	33 494	HU	36 230
SK	15 581	ES	17 049	ES	26 400	ES	29 469
LU	6 214	RO	16 941	HU <sup>19</sup>	25 046	FR	28 351
ES	5 890	FR	16 057	FR	21 012	HR	27 784
IT	3 798	IT	14 881	RO	13 478	RO	16 731
HR	n.a.	LU	9 966	LU	11 115	LU	13 737

*Source: A1 database (European Commission, 2024a; 2025)*

Looking at the data provided within the German prior declaration tool, a slightly different distribution for 2022 can be seen; *Table 5*). While also here, Poland is the country with the most notifications (129 652, 38.8%) and postings (651 713, 40.8%) registered, it is followed by Austria (22 625 notifications (6.8%); 90 390 postings (5.7%)) and Romania (19 404 notifications (5.8%); 133 489 postings (8.4%)). Also, France and Italy are not represented among the ten most important sending countries. Instead, Lithuania<sup>20</sup> and the Netherlands are included.

**Table 5. Number of notifications and postings in the German declaration tool, breakdown by sending Member State, 2022**

Country	Notifications		Postings	
PL	129 652	38.8%	651 713	40.8%
AT	22 625	6.8%	90 390	5.7%
Extra-EU	21 831	6.5%	130 201	8.1%
RO	19 404	5.8%	133 489	8.4%
HU	17 599	5.3%	83 941	5.3%
NL	16 791	5.0%	49 925	3.1%
LT	16 405	4.9%	52 324	3.3%
SI	13 523	4.0%	55 623	3.5%
HR	11 576	3.5%	48 053	3.0%
SK	11 543	3.5%	71 827	4.5%
ES	9 057	2.7%	46 670	2.9%

<sup>19</sup> 2022: data for 2021

<sup>20</sup> This is, because those are likely to be truck drivers. In the data on prior declarations for Germany before 2022, they were probably even more present (for instance, 164 971 postings from LT to DE in 2021). Though, due to the EU portal, this group has largely become invisible. They will mostly have a PD A1 based on Article 13, which is why they are not visible in Figure 1 above.

Country	Notifications		Postings	
BG	8 519	2.5%	35 161	2.2%
CZ	7 202	2.2%	34 173	2.1%
IT	5 632	1.7%	12 721	0.8%
LU	5 463	1.6%	17 289	1.1%
PT	4 992	1.5%	39 108	2.4%
LV	3 561	1.1%	8 334	0.5%
CH	2 916	0.9%	12 236	0.8%
BE	2 843	0.9%	10 476	0.7%
FR	1 569	0.5%	9 923	0.6%
DK	542	0.2%	1 569	0.1%
IE	313	0.1%	1 225	0.1%
SE	274	0.1%	847	0.1%
EE	251	0.1%	626	0.04%
FI	182	0.1%	190	0.01%
EL	127	0.04%	244	0.02%
LI	40	0.01%	71	0.004%
NO	21	0.01%	144	0.01%
<b>Total</b>	<b>334 453</b>	<b>100%</b>	<b>1 598 493</b>	<b>100%</b>

*CY, MT, and IS as the country of origin are included under 'Extra-EU'.*

*Source: (De Wispelaere, De Smedt, & Pacolet, 2024)*

Some trends similar to the development in PDs A1 numbers from the EU database can be witnessed, such as Hungary becoming less and Austria and Slovakia becoming more important as sending countries (De Wispelaere, De Smedt & Pacolet, 2023a and 2022a). It should be noted however, that data from the Minimum Wage Registration Portal for 2020 – 2022 do not indicate such a trend for the two countries.

When it comes to the data provided to the German Pension Insurance DRV, for 2022, again Poland is the country with the most PDs A1 registered (26%), followed by Slovakia (13%), Austria (11%), Italy (8%) and Hungary (7.7%). A similar ranking also can be seen for 2023, albeit with Slovenia appearing among the first five sending countries: Poland (28%), Slovenia (11.4%), Austria (11.0%), Slovakia (10.6%) and Italy (6.9%). This change is possibly due to a change in data transmission and not necessarily in the number of postings.

Germany is also one of the main receiving countries of *posted TCNs*, including those posted to Germany from another Member State, e.g. Poland or Slovenia. In 2020, 17 833 were recorded. Main nationalities were Turkish, Russian, Serbian, Swiss, Belarussian, Ukrainian and Bosnia and Herzegovinian. The main sectors are construction and road freight transport. Important corridors for posting of TCNs to Germany are through Austria (mainly posted TCNs from Bosnia and Herzegovina, Turkey, and Serbia), Italy (mainly TCNs from Morocco), Poland (Ukrainian TCNs) and Slovenia (TCNs from Bosnia and Herzegovina). In 2021, Poland issued 42% of PDs A1 (only Article 12 Regulation (EC) No 883/2004) to posted TCNs going to Germany, with most of these forms being granted to workers of Ukrainian nationality (European Labour Authority, 2023).

According to the EU report on prior declaration tools, in 2022, approximately 130 000 postings, accounting for 8% of the total reported postings in Germany, involved TCNs being sent directly from a non-EU country in 2022 (De Wispelaere, De Smedt, & Pacolet, 2024, p. 12).

## Vander Elst Visa

For TCNs temporarily providing services in Germany, a “**Vander Elst Visa**” is typically required unless the TCNs holds long-term residence in another EU Member State and the stay is under 3 months within a 12-month period. The application process for this visa involves substantial documentation, such as service contracts and proof of health insurance. This visa requirement was challenged at the ECJ in 2006. The Court ruled that Germany's stipulation of a one-year prior employment period for TCNs violated Article 49 of the EC Treaty on the freedom to provide services. The current law still requires a Vander Elst visa for many cases, imposing additional administrative burdens on TCNs and their employers (Andriescu, et al., 2024, pp. 99-101).

Data on the number of Vander Elst Visa are not published on a regular basis. However in response to parliamentary inquiries, the German government has provided data on the number of for 2022 and 2023 and the first half of 2024 which indicate a slight increase from 1 192 in 2022, 1 428 in 2023 and 1 129 for the first half of 2024.<sup>21</sup>

### By status: workers vs self-employed

Self-employed posted workers only have a small share in the overall number of posted workers: The share of PDs A1 issued for posted workers has increased since 2021, reaching 90.9% in 2023. The share surpasses 80% for most of the sending countries, except for Cyprus (67%)<sup>22</sup> and Slovakia (41%) (see *Table 6* below).

**Table 6. Share of PDs A1 issued for workers and self-employed posted to Germany according to Art. 12 BR, 2019-2024, based on data provided by German Pension Insurance**

	2019 (2 <sup>nd</sup> semester)	2020	2021	2022	2023	2024 (1 <sup>st</sup> semester)
Employed (Art. 12.1)	91.1%	91.3%	86.8%	89.5%	90.9%	89.2%
Self-employed (Art. 12.2.)	8.9%	8.7%	13.2%	10.5%	9.1%	10.8%

Source: German Pension Insurance DRV

Looking at data presented in the EU database (see *Table 7* below), a similar development can be seen. In 2023, 92.1% of PDs A1 were issued to employed persons posted to Germany according to Art. 12 BR.

**Table 7. Share of PDs A1 issued for workers and self-employed posted to Germany according to Art. 12 BR, 2019-2023, based on data provided by EU A1 reports**

	2018	2019	2020	2021	2022	2023
Employed (Art. 12.1)	91.3%	92.4%	91.7%	91.5%	91.9%	92.1%
Self-employed (Art. 12.2.)	8.7%	7.6%	8.3%	8.5%	8.1%	7.9%

Source: EU A1 reports (De Wispelaere, Smedt, & Pacolet, 2024b) (2023b), (2022b), (2021b), (2020), (2019)

### The duration of posting to Germany

According to data from the Minimum wage registration portal, the average duration of postings in 2022 was 94 days, representing a decrease in duration by 18% compared to 2021. Regarding notifications, the average duration was 420 days in 2022, which is a decrease of 6% (De Wispelaere, De Smedt, & Pacolet, 2024) and (2023a)). A breakdown by the number of days and business trips is not available.

<sup>21</sup> Bundesdrucksache 20/9236 of 09.12.2023, p. 65 and Bundesdrucksache 20/14005 of 02.12.2024, p. 27.

<sup>22</sup> However, with a total number of only 3 PDs A1 reported for Cyprus, the significance is limited.

## The role of temporary agency work

Although temporary agency work is not one of the sectors listed in Section 4 *AEntG*, the *AEntG* is nevertheless relevant for temporary employment. On the basis of Section 8 (3) *AEntG*, and if the temporary agency worker is carrying out activities that are covered by a collective agreement, the hiring company is obliged to apply the respective conditions to temporary agency workers, even if the hiring company itself is not covered by the respective agreement or statutory regulation (Bundesministerium der Finanzen, 2021).

When it comes to posting of workers by temporary work agencies (TWAs) to Germany, the publications on data from the prior declaration tools by the European Commission is the main source publicly available as neither the Federal Ministry of Finance (BMF) nor the German customs authority were able to provide data from the Minimum Wage Registration Portal because the data required for this study is not collected there.

Posting notifications for posting through TWAs accounted for 6.9% of all notifications in the German prior declaration tool in 2022 (De Wispelaere, De Smedt, & Pacolet, 2024). While this share was relatively stable between 3% and 4% in the years 2019 to 2021, it increased in 2022. However, this is mainly due to a decrease in the number of contract of services or intra-corporate transfers for example in the transport sector which are not recorded anymore, while the total number of notifications of postings through TWAs increased slightly from 2021 to 2022 (+2%) (De Wispelaere, De Smedt, & Pacolet, 2021a) (2022a), (2023a).

In 2023, 5.1% of PDs A1 received by Germany are issued for persons providing activities in the temporary agency work sector. However, this figure is based on an incomplete dataset as it is derived from data reported by 23 sending Member States (De Wispelaere, Smedt, & Pacolet, 2024b).

It should be noted here that temporary agency work is not allowed in the construction sector. While no quantitative data are available, it seems that the ban of agency work in construction and industrial meat processing has resulted not necessarily in a reduction of incoming posted workers but in change in contractual forms and employment status, i.e. from agency work to work provided in the context of civil law contracts or formal self-employment. In the meat processing industry, this was one reason for tightening the rules by the revised GSA Act in 2020/21 when contract work was banned and the obligation of direct employment became obligatory (see Erol and Schulten, 2020 and 2025).

## Sectoral distribution

A fragmented view of activities under Article 12 in receiving Member States can be derived from data reported by 23 sending Member States. However, the limited reporting results in an incomplete dataset, though it still provides some insights into sectoral distribution. In 2023, Germany received 68.3% of PDs A1 in the industry and construction sector, 30.5% in the service sector and 1.2% in the agriculture, hunting and fishing sector. Within the services sector education, health and social work, arts and other services as well as the financial and insurance; real estate; professional, scientific and technical activities; administrative and support service activities played an important role (12.6% of all PDs A1 received each) (De Wispelaere, Smedt, & Pacolet, 2024b).

Another approach to gather information about sectoral composition is to analyse the sector structure of posted workers from the main sending countries to Germany: Poland, Slovenia, Austria, Slovakia, and Italy<sup>23</sup>. The industry sector still plays the largest role. In 2023, from these five countries 70.2% of posted workers are posted to the industry and construction sector (European Commission, 2025). This sector was the main posting generating sector in the last report with 77.5% in 2020 (IFO Institute, 2022). While the share of agriculture, hunting and fishing as well as the industry sector have decreased, the share of the services sector has increased (from 20.7% in 2020 to 27.7% in 2023).

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<sup>23</sup> There is no data available for Italy.



Having a look at the data retrieved from the prior declaration tool in Germany (Minimum wage registration portal) as shown in *Table 8* below, the picture for the development in 2022 is different. Mainly due to less notifications in the transport sector (-75% from 2021 to 2022), the share of the services sector has declined in 2022.

**Table 8. Number of notifications and postings by sector, data from the German prior declaration tool, 2019-2022**

Sector	Type	2019**	2020	2021	2022	2019-2022
Agriculture	Notifications	2 808	2 811	2 505	2 432	-13.4%
		0.4%	0.5%	0.4%	0.7%	
	Postings	13 836	11 876	10 882	7 878	-43.1%
		0.5%	0.5%	0.4%	0.5%	
Industry	Notifications	181 828	171 361	176 320	174 292	-4.1%
		28.4%	27.8%	26.9%	52.1%	
	Postings	1 244 157	963 281	959 867	1 012 559	-18.6%
		47.6%	40.0%	39.4%	63.3%	
Services	Notifications	454 866	424 464	460 016	136 293	-70.0%
		71.1%	68.8%	70.1%	40.8%	
	Postings	1 356 964	1 309 708	1 352 154	457 247	-66.3%
		51.9%	54.4%	55.5%	28.6%	
Other/ unidentified	Notifications	-	18 620	17 312	21 436	15.1%*
		-	3.0%	2.6%	6.4%	
	Postings	-	124 473	113 338	120 809	-2.9%*
		-	5.2%	4.7%	7.6%	
Total	Notifications	639 502	617 253	656 153	334 453	-47.7%
	Postings	2 614 958	2 409 338	2 436 241	1 598 493	-38.9%

\*Comparing data from 2020 to 2022. \*\* See note in Table 1 above for data limitations.

Sources: (De Wispelaere, De Smedt, & Pacolet, *Posting of workers. Collection of data from the prior declaration tools Reference year 2022, 2024*), (De Wispelaere, De Smedt, & Pacolet, 2023a), (De Wispelaere, De Smedt, & Pacolet, 2022a), (De Wispelaere, De Smedt, & Pacolet, 2021a)

While the total number of notifications declined by 49% between 2021 and 2022, it only declined by 0.2% excluding the transport sector. Also, the total number of postings decreased by 34%, while it even increased by 3% if the transport sector is not considered (De Wispelaere, De Smedt, & Pacolet, 2024). While the services sector was still more important in 2021 (with transportation and storage accounting for 63% of all notifications) than the industry sector, this changed in 2022.

This differs from the data recorded in the official A1 database provided by the European Commission. As stated in the previous country report, several factors could explain this discrepancy. Firstly, the sectoral distribution in the sending country may not accurately represent the sectoral distribution of postings to Germany. Secondly, the Minimum Wage Portal may not capture the entirety of postings to Germany, as it primarily focuses on low-salary postings (IFO Institute, 2022).

A more detailed breakdown of the sectoral distribution of PDs A1 for the five main countries sending posted workers to Germany shows that the construction sector dominates. In 2023, in these countries, 44.9% of postings are in construction (compared to 47.7% in 2020), followed by 25.3% in the broader industry sector (excluding construction) compared to 29.7% in 2020. The service sector postings are still largely concentrated in education, health, social work, and other service-related industries, accounting for 12.3% (compared to 14.3% in 2020). Transportation and storage, information and communication



represented 1.9%. Data for road freight transport was not available for all main sending countries (European Commission, 2025).

Data from the minimum wage registration portal also confirms the dominance of the construction sector. In 2022, most of the notifications and postings were registered in the construction sector (52% for notifications and 63% for postings). Despite the decline, the transporting and storage sector still played an important role in 2022, with 28% of notifications and 18% of postings to Germany. Other service activities accounted for 13% of notifications and 11% of postings. For Germany, several additional sectors of activity play a role that are registered under “other/unidentified” such as setting up and dismantling at trade fairs and exhibition, postal services, slaughtering and meat processing, facility cleaning services, personal transport, textile and clothing industry, security industry, and laundering services in the business-to-business sector (De Wispelaere, De Smedt, & Pacolet, 2024).

Data provided by the German Pension Insurance refers to all PDs A1 registered by foreign social security providers (hence not only referring to Article 12 BR). Here, most of the entries assigned to a sector are attributed to specialised construction activities (12% of all entries that are attributed to a sector), followed by manufacture of fabricated metal products, except machinery and equipment (6.3%), manufacture of motor vehicles, trailers and semi-trailers, and manufacture of machinery and equipment (5.7% each) (see *Table 9*).

**Table 9. Attribution of PDs A1 to sectors as registered with the German Pension Insurance<sup>24</sup>**

Sector	No. of entries	Share <sup>25</sup>
Specialised construction activities	57 978	12.0%
Manufacture of fabricated metal products, except machinery and equipment	30 502	6.3%
Manufacture of motor vehicles, trailers and semi-trailers	27 645	5.7%
Manufacture of machinery and equipment n.e.c.	27 539	5.7%
Wholesale trade, except of motor vehicles and motorcycles	22 139	4.6%
Manufacture of other non-metallic mineral products	21 367	4.4%
Construction of buildings	20 171	4.2%
Warehousing and support activities for transportation	19 118	4.0%
Activities of head offices; management consultancy activities	16 272	3.4%
Manufacture of food products	13 332	2.8%
Architectural and engineering activities; technical testing and analysis	11 942	2.5%
Manufacture of other transport equipment	11 311	2.3%
Manufacture of basic metals	11 295	2.3%
Manufacture of rubber and plastic products	10 834	2.2%
Manufacture of chemicals and chemical products	10 194	2.1%
Retail trade, except of motor vehicles and motorcycles	9 214	1.9%
Office administrative, office support and other business support activities	9 083	1.9%
Electricity, gas, steam and air conditioning supply	8 581	1.8%
Manufacture of computer, electronic and optical products	8 536	1.8%
Repair and installation of machinery and equipment	8 404	1.7%
Activities of households as employers of domestic personnel	7 865	1.6%

<sup>24</sup> As of 31/05/2024, referring to all entries/total number of forms stored in the database overall, broken down by industry, independent of the underlying regulation. Only sectors with a share of more than 1% are presented here. The number of unique clients or posted persons cannot be determined based on these data.

<sup>25</sup> Percentage of all forms in the respective industry in relation to all forms in the database that could be assigned to an industry.

Sector	No. of entries	Share <sup>25</sup>
Manufacture of electrical equipment	7 807	1.6%
Civil engineering	7 074	1.5%
Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	6 400	1.3%
Computer programming, consultancy and related activities	6 357	1.3%
Postal and courier activities	5 855	1.2%
Manufacture of paper and paper products	5 426	1.1%
Real estate activities	5 301	1.1%
Manufacture of basic pharmaceutical products and pharmaceutical preparations	4 802	1.0%
<b>TOTAL</b>	<b>482 180</b>	<b>100%</b>

*Source: Data provided by the German Pension Insurance DRV*

However, not every domestic employer of an E101/A1 form can be clearly assigned to an economic sector. Here, an attempt is made to assign the reported domestic companies to sectors as defined by the Federal Employment Agency (BA) at the time of recording the notification. However, this succeeds in only about 13% of cases due to various reasons – for example, when no German company is reported. Therefore, the total number of forms whose domestic employer could be assigned to an industry is evidently lower than the overall number of forms stored in the database.

### 2.1.2 Share of intra-EU posting in total employment

The number of incoming posted workers recorded in the prior declaration tool can be compared to the total number of employed individuals in the receiving Member States to gain a clearer understanding of the relative impact of worker postings. Based on an estimation and data from the Minimum Registration Tool, there were 1.5% of posted workers in total employed persons in Germany in 2022 (De Wispelaere, De Smedt, & Pacolet, 2024, p. 33), representing a decrease compared to 2021 (1.9%) (De Wispelaere, De Smedt, & Pacolet, 2023a, p. 38). Also, in 2020 (1.8%) and 2019 (2.1%) the share was higher (De Wispelaere, De Smedt, & Pacolet, 2022a, p. 32) (De Wispelaere, De Smedt, & Pacolet, 2021a, p. 31).<sup>26</sup>

The share of posted workers in total employment may vary considerably between sectors. However, data on sectoral characteristics is not available from the prior declaration tool. Only the joint institution of the social partners in the German construction industry, SOKA-BAU provides information on the share of posted workers in the total workforce in the main construction sector. The share has decreased from 10.7% in 2019 to 9.94% in 2020 and 9.9% in 2021, increasing to 9.95% in 2022 and 10.2% in 2023 (SOKA-BAU, 2024).

### 2.1.3 Case study: Road freight transport

#### Role of posting of workers

For a long time, the road transport sector has been a problematic sector in terms of cross-border labour mobility, including posting of workers. The road freight sector, and here in particular the international transport and cabotage<sup>27</sup> transport, has been characterised by social dumping, the use of letterbox companies to circumvent national rules and an excessive exploitation of drivers by long periods away from

<sup>26</sup> As Germany was not able to provide the number of incoming posted persons, while they could provide the number of postings, an estimation was made of the number of incoming posted workers by dividing the reported number of postings by the average number of postings per person.

<sup>27</sup> Cabotage operations are understood as domestic operations for hire or reward carried out on a temporary basis on a territory of a Member State by an operator established in another Member State.

home and on the road (Vitols & Voss, Social Conditions in Logistics in Europe: Focus on Road Transport, 2019).

Against the specific nature of international transport, new provisions on the application of posting rules to road transport drivers were introduced in the context of the so-called Mobility Packages 2020 as so called “*lex specialis*” by Directive (EU) 2020/1057 with sector-specific provisions and rules implementing the Posted Workers Directive in the sector. These rules aim to ensure that posted workers are paid according to the host country’s conditions and prevent social dumping. Restrictions on cabotage and the truck return rule help address these issues. Additionally, trucks must be equipped with smart tachographs by 2024 to track loading/unloading locations and border crossings, with regulations extending to smaller vehicles by 2026 (Weirich & Wahl, 2022).

In October 2024, the European Court of Justice (ECJ) upheld much of the EU Mobility Package but overturned the requirement that was introduced by Regulation EU 2020/1055 for trucks to return to their home bases every eight weeks, citing insufficient evidence of its proportionality. This decision has sparked criticism over potential impacts on fair competition in the transport sector. Other provisions, such as rules on rest periods, cabotage, and driver posting, were deemed valid. Critics are urging the European Commission to address the lack of enforcement mechanisms and propose solutions to ensure fair competition and compliance with the package’s goals (VerkehrsRundschau, 2024).

The Posting of Workers Directive applies to specific transnational road transport operations, as defined in Directive (EU) 2020/1057. In particular, truck drivers involved in cross-trade<sup>28</sup> and cabotage are considered posted workers, but it is still difficult to determine which transnational activities fall under the Directive (European Commission, o.J.).

Transposing the new EU rules, on 1 July 2023, a new law came into effect in Germany, regulating the posting of drivers in the road transport sector and cross-border enforcement of posting regulations<sup>29</sup>. This law modifies in particular the Posted Workers Act and the Minimum Wage Act, clarifying the applicability of posting rules for companies involved in cross-border transportation of goods and passengers and stipulating the registration obligation to IMI. Under the revised regulations, the posting rules apply to cross-border transport, covering trilateral transport and cabotage for companies based in the EU, EEA, or third countries.

Special rules apply to transport companies from the EU, EEA, and the UK: Transit transport, where vehicles pass through Germany without loading or unloading goods or passengers, is exempted from working conditions under the PWD. Bilateral transport operations, which involve direct cross-border movement of goods or passengers between the company’s base country and Germany, are also generally exempt as well as certain additional activities. From 21 August 2023, these exemptions for certain additional activities will only apply if vehicles are equipped with smart tachographs as per EU regulations. Combined transport operations, involving multiple transport modes, remain exempt from the working conditions under the PWD if the road segment involves only bilateral or exempt trilateral transport. For posting declarations, companies are exempt from filing if their transport activities fall under these exceptions. When the working conditions under the PWD apply, EU and EEA companies must submit declarations via the Internal Market Information System (IMI), while companies from non-EU countries must use the Minimum Wage Registration Portal. Foreign employers posting workers to Germany for services or leasing employees must register their workers through the Minimum Wage Registration Portal (German customs, 2023).

28 Cross-trade is international road transport between two different countries performed by a road motor vehicle registered in a third country, other than the country of loading/embarkation and the country of unloading/disembarkation. This transport is reported by the country in which the vehicle is registered.

29 “Gesetz zur Regelung der Entsendung von Kraftfahrern und Kraftfahrerinnen im Straßenverkehrssektor und zur grenzüberschreitenden Durchsetzung des Entsenderechts”, BGBl. 2023 I Nr. 172 vom 30.06.2023, <https://www.recht.bund.de/bgbli/1/2023/172/VO>

## Systemic challenges and poor working conditions

As trade unions such as the European Transport Workers Union frequently have highlighted and illustrated by numerous examples, truck drivers in Europe, particularly those from Eastern Europe and non-EU countries, much too often face exploitation, poor pay, and harsh working conditions. Many drivers earn low wages or are even deprived of wage payments<sup>30</sup>, often below the local minimum wage, and are forced to live in their trucks for weeks or months. Some companies circumvent regulations by counting expense payments for food and lodging as part of the wage, which is illegal but rarely challenged due to job insecurity. These workers, especially those from countries like Belarus, Ukraine, and the Philippines, are often unprotected by unions and lack access to legal support (Vitols & Voss, 2019).

As highlighted in recent research reports (Baranska & Picard 2023; Weirich & Wahl 2025), there has been a strong trend of recruitment of drivers from non-EU countries that have concluded an employment contract in another country but carry out transport operations for German clients in Germany. Compared to other types of employment contractual relations (drivers from other EU countries with an employment contract in Germany and drivers from third countries with an employment contract in Germany), the social and working conditions of this group of drivers according to evidence gathered by initiatives such as Fair Mobility are much worse (Weirich & Wahl 2025).

Legislation at EU level on the protection of posted workers such as Directive (EU) 2020/1057 is very complex, which challenges enforcement of posting rules. Companies exploit loopholes, setting up letterbox or shell companies or using subcontractors, leading to lower wages and worsening competition. In Germany, the truck driver shortage exacerbates these issues, with many foreign drivers working under precarious conditions. Drivers are often fined for infractions forced on them by employers, and despite regulations like the requirement for drivers to return home every eight weeks, these rules are frequently ignored or as in the case of the obligation for the return of the truck every eight weeks, overturned by the ECJ.

The transposition of EU regulations in Germany has been slow, leaving drivers uncertain about their legal protections. Even where reforms have been introduced, loopholes and weak enforcement undermine progress according to trade unions as well as employer organisations in the sector. Truck drivers in Germany are increasingly coming from abroad, particularly Eastern Europe and non-EU countries. These drivers face exploitation, with many working under foreign contracts that benefit companies but disadvantage workers. Pay often decreases the further a driver's home country is from the workplace, and protective regulations like the requirement to return to company bases every eight weeks are poorly enforced (Weirich & Wahl, 2022). The Federal Office for Logistics and Mobility (BALM) monitors driving and rest times, but enforcement is weak, and drivers are penalised for mandatory breaks they cannot control (LabourNet Germany, 2024a). Loopholes, like Lithuanian companies using subsidiaries in Poland, further undermine reforms, leaving drivers stranded in substandard conditions (ver.di 2022).

## Development of the German road freight sector and data on posting

With the introduction of the 'EU Portal for road transport posting declarations' (multilingual public interface connected to IMI) as the mandatory tool for submitting prior declarations when posting drivers to another Member State on 2 February 2022, data on this sector is no longer accessible through the German prior declaration system but through IMI.

In the last 10 years between 2014 and 2023, German road freight transport has decreased by 8% (measured in million tonne-kilometres (TKM)). Also, the share of national road freight transport in total transport has increased, reaching 89% in 2023 compared to 85% in 2014.<sup>31</sup>

<sup>30</sup> See for example the recent case of Gräfenhausen as reported by ETF: <https://www.etf-europe.org/wp-content/uploads/2023/07/2023-07-27-PR-ITF-Second-wildcat-strike-in-Gräfenhausen.pdf>

<sup>31</sup> Eurostat [road\_go\_ta\_tot]

Drivers engaged in cabotage (domestic transport by foreign hauliers) or cross-trade (transport operations carried out between two Member States, or between a Member State and a third country, none of which is the country of establishment of the operator carrying out these operations) are classified as posted workers under Directive (EU) 2020/1057 due to their stronger connection to the host Member State. The Member State carrying out by far most of the cabotage activities in Germany is Poland with 65%, followed by Lithuania (10%), the Netherlands and Romania (4% each).<sup>32</sup> The cabotage penetration rate in Germany defined as the share of cabotage transport in total national transport (the sum of national transport for hire and reward and cabotage transport in Germany) has increased to reach 10.5% in 2023 becoming the largest rate in the EU-27 (Eurostat, 2024).<sup>33</sup> In 2023, cross-trade loaded in Germany and unloaded in the EU-27 as well as loaded in the EU-27 and unloaded in Germany is mainly carried out by Poland (44% and 46% respectively), followed by Lithuania (14% and 13% respectively).<sup>34</sup>

In addition, the issuance and circulation of driver attestations offer insight into the involvement of TCNs in the road freight transport sector. These attestations confirm that non-EU drivers are legally employed by or assigned to an EU transport operator. Although not all drivers with attestations are posted abroad, the document indicates those who may be eligible for cross-border transport operations (De Smedt & De Wispelaere, 2024). In 2022, Germany issued 1 567 driver attestations, an increase by 115% compared to the previous year. Still, the number remains relatively low compared to other countries such as Poland (106 599) or Lithuania (44 988) (European Commission, 2024b).

There is a continued decline in the proportion of German professional drivers in road freight transport, with an increase in foreign drivers, particularly from EU countries. Drivers from Poland represent the largest foreign group, followed by Romanian and Bulgarian drivers (Bundesamt für Güterverkehr, 2021).

#### 2.1.4 Case study: German meat industry

##### Role of posting of workers

The employment of workers by companies or agencies in Central and Eastern Europe (in particular Romania) with the sole purpose of posting them to Germany became a sector-wide business model of cost reduction and competitive advantages for the large German industrial slaughtering and meat processing sector since the late 1980s and early 1990, also making use of new possibilities to recruit workers from lower wage countries in Central and Eastern Europe after the EU enlargement 2004 and 2007. While free movement of labour was still restricted in a transition phase, the posting of workers regulation was used as one instrument to employ workers on much lower wages by subsidiaries or agencies in the sending countries or in the contract of subcontracting chains (Erol & Schulten, 2021).

Posted workers were treated partly according to German labour law and partly according to their homelands' labour law. The wage level and social security contribution were initially determined by the standards in the home countries making posting financially attractive for employers. Nevertheless, from 2015 a declining trend in posting workers began in Germany. This decline was influenced by several factors, including rising social insurance costs in home countries like Romania starting in 2016, which partly diminished the cost advantage for German companies. Furthermore, the introduction of sector-specific minimum wages in Germany in 2014, and the general minimum wage in 2015, further lessened the cost advantage of postings. In response to growing public interest in the poor working and living conditions as well as abusive practices of employers and subcontractors, more than 50 meat companies signed a voluntary code of conduct in 2015, including the self-commitment to improve working conditions in the industry and only award contracts to subcontractors that employ their workers in accordance with German labour and social security laws. This commitment was largely implemented by converting foreign

32 Eurostat [road\_go\_ca\_hac]

33 Eurostat [road\_go\_ta\_totf] and [road\_go\_ca\_c]

34 Eurostat [road\_go\_cta\_gtf]



subcontracting companies into German entities, thus changing the legal status of the workers from posted workers to employees of German companies (Korb, Sommer, & Bröker, 2023, pp. 67-69).

As a result, workers who were previously posted from abroad became employees of German-registered companies. The increase in non-German employees in the meat industry is partly due to companies reducing the number of posted workers from abroad, who were not socially insured in Germany and thus were not included in the BA employment statistics. By relocating subcontracting companies to Germany, these workers became socially insured and included in the statistics. Overall, the combination of rising social insurance costs in home countries, new minimum wage laws in Germany, regulatory changes increasing compliance burdens, and strategic shifts by companies to use German subcontractors contributed to the decline in postings while still maintaining or increasing the employment of non-German workers through different mechanisms.

The exact number of posted workers in the meat industry cannot be determined from official data. Data from the German Pension Insurance using A1 certificates indicated that about 15% of postings to Germany between January 2012 and March 2013 were in the meat industry, suggesting around 150 000 postings. This figure is considered implausibly high relative to the total workforce in the industry, indicating that A1 certificates are not a reliable measure of posted workers. Additionally, routine A1 statistics cannot be broken down by industry or analysed over long periods, so they do not reveal trends in postings.

### **The GSA Fleisch (Meat)**

Due to persisting poor working conditions and social challenges in the context of employment of posted workers in the German meat processing sector, the first *Act to Safeguard Employee Rights in the Meat Industry (GSA Fleisch)*, which dated back to 2017, was amended on 1 January 2021. This amendment and the introduction of stricter rules, including the obligation of direct employment by the German meat industry companies, was also a reaction to the worsening of working and living conditions of foreign workers during the COVID-19 pandemic, for example the spreading of the virus in overcrowded accommodation or due to poor sanitary situations at the workplace because employers did not follow the legal rules.

Working conditions and low wages in the German industrial meat production have been the focus of public attention and criticism for decades. In the context of open labour markets, strong price competition and declining collective bargaining coverage, practices developed that in many cases undermined the rights of employees (ibid. 20). The Germany meat industry companies often recruited external workers with agency or temporary ‘service’ contracts (*‘Werkeverträge’*) in the new EU Member States that had a significant minimum wage gap compared to the previous EU Member States (DGB, 2022). This was, among others, an attractive criterion for the employers since they could have a cheaper external labour force.

There are specific accident risks associated with working in the meat industry. These include working with sharp tools, the pace of work, contaminated floors and handling strong cleaning or biological substances. However, according to the literature, occupational health and safety was inadequately implemented prior to the amendment of the GSA Meat. There are reports of a lack of instruction, insufficient protective clothing, the absence of occupational healthcare, deficiencies in technical occupational health and safety and inadequacies in the occupational safety organisation. A lack of professional experience and the low proportion of vocational training in the sector also made it difficult to implement preventative measures (Korb, Sommer, & Bröker, 2023, p. 122). This situation mostly arose in the context of extensive recruitment of external personnel since the subcontractors often did not give high priority to occupational health and safety (ibid. p. 17).

Even a self-obligatory commitment by the largest companies in the meat industry in 2015 regarding the minimum wage law and the GSA Meat of 2017 has barely succeeded in remedying the shortcomings and improving the situation. This led legislators to impose stricter GSA Meat regulations as of 1 January 2021. Among other things, restrictions were placed on the employment of external personnel. Exceptions existed

until 31<sup>st</sup> of March 2024 for skilled craft enterprises and, under certain conditions, for leasing employees in meat processing for a limited period (ibid. 20, 34). The amendment of the GSA Meat Law regulated the following issues:

- Employers in industrial meat processing must now manage their business or the overarching organisation as the sole owner to strengthen their legal and social responsibility, e.g., when it comes to providing accommodation.
- There has been a prohibition for temporary employment in the slaughtering/ butchering sector since 1 April 2021. In processing, temporary employment was permitted for a transitionary period until 31 March 2024, provided that it was regulated by a collective agreement and limited to a maximum of a) eight percent of the calendar-year working time volume and b) one hundred full-time equivalents (FTE).
- Further to the restrictions of TAW, further groups of workers that are not directly employed by the company are banned, thus subcontracting is no longer possible in the meat processing industry. However, for skilled craft meat producing businesses with fewer than fifty employees (including external staff, excluding sales staff and trainees), the use of external staff is still possible.
- Working hours are defined more precisely by explicitly including preparation, washing and changing time. Moreover, working hours must now be recorded electronically in a tamper-proof way.
- The customs administration and the Federal Employment Agency check the compliance with the limited deployment of external personnel.
- Fines for new offenses are set at up to € 500 000 (ibid. 20-21).

### **Impact of the new legislation**

The amendment of the GSA Meat has improved the enforcement of rights in several ways, including greater contract transparency, increased employee willingness to stand up for their interests, better compliance by main companies, and easier inspections by supervisory authorities. This has resulted in easier enforcement of rights and decreased grievances in the meat industry. Previously, it was difficult to enforce rights and claims since external workers often did not have access to their contracts, or did not understand them due to language barriers. Often, workers were not certain who their employer was. The new contracts following the amendment are more transparent with regard to possible charges, e.g., deductions for advance payments, services for rent or transportation and the basis for calculating the payment (working hours, social security deductions). One reason for this could be that main companies are taking more responsibility for including only lawful provisions, perhaps also because their works councils can review the legality of such contracts following the amendment of the GSA Meat (Karb, Sommer, & Bröker, 2023, pp. 170-171).

Official data and qualitative analyses show that external employees have been almost fully absorbed in the core business (ibid. 169). The new contracts after the amendments are made more understandable by HR departments and the work councils. Besides payments, the contractual transparency now also concerns regulations for promotions and training opportunities (Korb, Sommer, & Bröker, p. 171). The food, beverages and catering trade union (NGG) points out that legally binding dismissals are now the norm (ibid.). Due to the integration of external personnel and fewer contact persons for occupational health and safety in companies, the inspections by the insurance providers have become easier.

The obligation to digitise time recording has made it easier for inspection authorities to identify violations of working hours and minimum wage undercutting. These violations were previously almost impossible to identify according to the interviewed authorities.

An unintended consequence of the amendment according to the report relates to the dual role of the employer before the GSA came into force: According to the report some employers have relieved themselves from the legal responsibility for inadequate staff housing by transferring it to private rental agreements (Karb, Sommer, & Bröker, p. 173).

Finally, there is a lack of official data and thus its comparability over time, which makes it difficult to reliably assess developments in this sector.

### 2.1.5 Case study: Live-in care in Germany

At the end of December 2023, nearly 5.7 million people in Germany were in need for long-term care according to the Long-Term Care Insurance Act. Compared to 2021, the number has increased since 2021 by about 15%. according to the long-term care statistics.<sup>35</sup> While according to the long-term care statistics, already at the end of 2023, about 4.9 million or nearly 9 out of 10 people in need for care were looked after at home, it is expected that the demand for home care will be steadily growing due to a shortage of professional care staff and demographic changes.

A significant and increasing part of home care is provided by migrant workers that not only work in the household but also live there, so-called 'live-in' care workers. Though no reliable data exist, it is quite obvious that this type of domestic care and support work has become an integral part of the German long-term care sector.

The lack of valid data is primarily due to the high percentage of irregular and illegal employment in the sector, with many live-in caregivers working under informal arrangements that go unrecorded. Additionally, high turnover rates are prevalent as many live-in caregivers work in Germany for only a few months before returning to their home countries (Schabram & Freitag, 2022).

Estimates suggest that between 300 000 and 700 000 migrant workers are involved in providing care in domestic settings, with the majority coming from EU countries and around 133 000 from non-EU states. Poland remains the largest source country for live-in caregivers, also acting as a recruitment hub for caregivers from other Eastern European countries and non-EU countries (Minor, 2021). Survey data indicates that over 90% of live-in caregivers are female, with an average age of 50 years (Minor, 2020).

Germany receives a significant number of posted health and LTC workers, primarily from Poland, with many live-in carers commuting for 1–3 months at a time. In 2020, over 74 000 PDs A1 were issued for Polish workers in health and social work, but official data likely underestimates the scale due to widespread undeclared work. It is estimated that 300 000–350 000 live-in carers in Germany are undeclared, with 80–90% of caregivers from Eastern Europe working informally (Andriescu, et al., 2024, p. 94).

Given the anticipated rise in care needs and the increasing living standards in Poland, Bulgaria, and Romania, a rise in live-in caregivers from outside the EU, particularly from Eastern neighbouring countries and the Balkans, is expected (Minor, 2021). This has been further intensified by the war in Ukraine, which has led to a significant number of Ukrainians becoming available for caregiving work under poor working conditions (Minor, 2022).

### A complex and unclear legal framework favouring illegal work

The legal framework surrounding the employment of live-in caregivers in Germany is complex and often lacks clarity. According to estimates, posted workers represent the most popular form of (formal) foreign live-in care employment in Germany, accounting for more than 60% of foreign employment. The second most common type is (bogus) self-employment, while the direct employment model under German labour

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35 Statistical Report 2023: [https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Gesundheit/Pflege/Publikationen/Downloads-Pflege/statistischer-bericht-pflege-deutschlandergebnisse-5224001239005.xlsx?\\_\\_blob=publicationFile&v=2](https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Gesundheit/Pflege/Publikationen/Downloads-Pflege/statistischer-bericht-pflege-deutschlandergebnisse-5224001239005.xlsx?__blob=publicationFile&v=2)



law is of only marginal significance.<sup>36</sup> Workers are typically recruited through private agencies and work as migrant workers for two to three months in Germany before returning to their home countries for several weeks (Schabram & Freitag, 2022).

A live-in caregiver is employed by an agency in their home country, either as a worker or, in Poland's case, under a specific contract known as "*umowa zlecenia*". The majority of agencies in the posting model place Polish live-in caregivers. Typically, the caregiver is sent to Germany under a service contract (§ 611 BGB) between the household in need of care and the agency. There is no need for a direct contract between the caregiver and the household. A German placement agency can also act as an intermediary, facilitating the connection between the foreign agency and the household. This model has grown, particularly as the number of German placement agencies has increased significantly during the COVID-19 crisis, rising from 28 agencies in 2007 to 784 by 2022 (24h-Pflege-Check.de, 2022). Research on agency-mediated work shows mixed results. Agencies are often poorly regulated, ignore labour standards, and exploit live-in caregivers with excessive hours, which they advertise as "24-hour care." This shapes family expectations and draws criticism from migrant worker advocates. However, some agencies have adopted self-regulation as a competitive advantage (Habel & Tschenker, 2022).

These agencies often collaborate with providers or TWAs in Eastern European countries, including Poland, Croatia, Hungary, and Slovakia. Germany hosts the largest number of such agencies in the EU.

Although legal models such as the posting model and direct hiring exist, compliance with labour laws, particularly regarding working hours (live-in care work is often referred to as "24-Hours Care") is often lacking. Live-in caregivers are typically not trained professionals and can only provide basic care, limiting their role (Sachverständigenrat für Integration und Migration, 2022). Moreover, posting costs, such as travel and accommodation, cannot be deducted from the minimum wage, but many regulations under the Posted Workers Act do not apply to live-ins. For instance, they are not covered by sector-specific collective agreements, and they often work shorter periods, which means the extended labour protections after 12 months of employment do not apply to most live-ins (Schabram & Freitag, 2022).

In the posting model, where live-in caregivers are employed by agencies in their home countries, German minimum labour protections (e.g., working hours, vacation, minimum wage) apply under § 2 AEntG. However, legal issues arise with the "*umowa zlecenia*" contract, which offers fewer worker protections like termination rights and vacation. Despite this, EU law ensures that German labour protections still apply to posted workers classified as employees in Germany, even if treated as independent contractors in their home country (Habel & Tschenker, 2022).

A 2022 court ruling in favour of a Bulgarian live-in caregiver further highlighted legal concerns. The caregiver, despite a contract for 30 weekly hours, claimed to work 24 hours a day and was entitled to minimum wage for her standby time, demonstrating how the law is sometimes enforced to protect caregivers (Landesarbeitsgericht Berlin-Brandenburg, 2022).

### Working condition challenges

The working conditions for live-in caregivers in Germany are challenging, characterised by long hours, high stress, and low job satisfaction. A 2023 study of 429 caregivers revealed that the average workweek is around 72 hours, with most caregivers working weekends and often not being compensated for overtime (Rösler, et al., 2024). Caregivers in this sector report high levels of burnout and emotional exhaustion. About one third report feeling physically exhausted, and nearly half report feeling emotionally drained. In fact, 47% of caregivers continue working while sick. Job satisfaction is notably low compared to other caregiving professions, with an average satisfaction score of 52 out of 100, much lower than elderly care workers (67/100) or the general workforce (70/100). A significant portion of caregivers, about 25%,

36 In this context, a ruling of the Federal Social Court (BSG) of September 28, 2011 (Ref. B 12 17/09 R), which provides for a broad framework for the assumption of self-employment in connection with live-in caregivers.

consider changing jobs regularly, while 22% contemplate leaving the profession altogether (Rösler, et al., 2024). Despite the significant emotional labour and work-life balance challenges caregivers face, agencies often neglect their safety and well-being. Many caregivers are employed under service contracts that ignore employer responsibilities for workplace safety and social security contributions. Many caregivers also seek more autonomy, particularly regarding food choices, and demand more respectful treatment from care recipients and their families (Rösler, et al., 2024). The report further highlighted the need for agencies to ensure compliance with contractual obligations and to provide essential tools and hygiene supplies. The lack of inspection and control of working conditions is a major issue in this sector. Although there are rare instances of inspections, such as the nationwide raid in 2024 by German customs targeting companies that arrange live-in caregivers for so-called 24-hour care in private households<sup>37</sup>, oversight remains limited. Improving the working conditions for caregivers requires greater cooperation from both foreign sending companies and domestic agencies to ensure that laws and ethical standards are adhered to.

The need for continuing education for caregivers and informational programs for care recipients and their families is also emphasised as a necessary step to establish fair and safe caregiving arrangements (Sachverständigenrat für Integration und Migration, 2022).

### 2.1.6 Case study: The German construction industry

#### Role of posting of workers

As noted in a recent study of ELA, Germany is the main receiving country of posted workers in the EU construction sector (European Labour Authority, 2023, S. 21). In 2022, 41.7% of PDs A1 received by Germany were related to construction works, with Poland (54 991 PDs A1 issued to Germany) being by far the most important sending country, followed by Slovakia (24 190 PDs A1), Slovenia (30,352) and Croatia (17 855) (De Wispelaere, De Smedt, & Pacolet, 2023b).

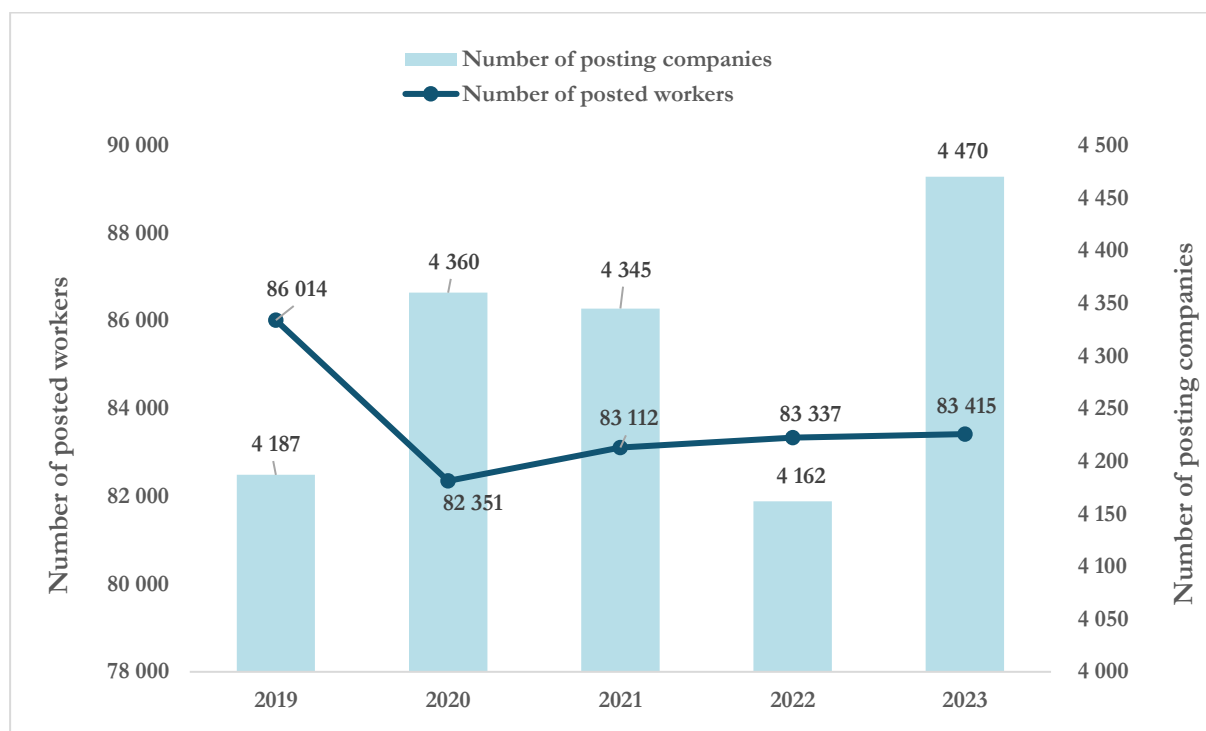
As already noted above (see *section 2.1.1*), data from the German minimum wage registration portal for the year 2022 also indicate the important role of posted workers for the construction sector. In 2022, the majority of notifications (52%) and postings (63%) were attributed to construction works, making it the most important sector. The most performed tasks included building construction work, concrete work, reinforcement work, carpentry work, assembly of building components and other construction work.

In 2023, in the German main construction sector, around 10% of all employees were estimated to be posted workers. Regarding the main sending countries of the posting companies, Poland, Austria, and Czechia were top of the list. According to data from the *Sozialkassen der Bauwirtschaft* (SOKA-BAU), there were 83 415 posted workers subject to contributions to the joint social fund contributions in the construction sector in 2023 (see *Figure 2* below).

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<sup>37</sup> Authorities suspect two men and two women, aged 47 to 75, of recruiting Romanian workers without paying proper social security contributions, causing at least € 2.2 million in damages. The investigation also uncovered illegal employment, with non-EU workers using tourist visas. Evidence was seized, but it will take weeks to evaluate. Source: German Customs Press Note, 18.9.2024.  
[https://www.zoll.de/SharedDocs/Pressemitteilungen/DE/Schwarzarbeitsbekämpfung/2024/x76\\_schwarzarbeit\\_pflege\\_ms.html](https://www.zoll.de/SharedDocs/Pressemitteilungen/DE/Schwarzarbeitsbekämpfung/2024/x76_schwarzarbeit_pflege_ms.html)

**Figure 2. Number of posting companies and workers posted to the German main construction industry, 2019-2023**



Source: (SOKA-BAU, 2024)

While the number of workers had decreased by 4.3% between 2019 and 2020 due to the COVID-19 pandemic, it has slightly increased since, although not reaching the pre-pandemic number (see *Figure 2*) (SOKA-BAU, 2024). In 2023, more posted workers came from Poland than from other countries, followed by Romania and Austria. Poland is also the country with the highest number in terms of the number of posting companies, followed by Austria and Slovenia. This has not changed in comparison to 2022 (SOKA-BAU, 2024).

### Challenges related to working conditions and workers protection

The construction sector is a labour-intensive sector with strong competition between companies based on labour costs. In addition, there is a high prevalence of subcontracting and transnational subcontracting chains involving workers from different EU countries and, increasingly, TCNs. Competition on labour costs (including not only wages but also social security benefits; health and safety standards, etc.) takes advantage of the still significant varying levels of average and minimum wages, social security tax contributions and the costs of living between Member States.

Against this and as noted in a recent ELA report, “Posting of workers is therefore more likely to be exposed to abusive practices in the construction sector, leading to infringements and violations of Member State legislation.” (European Labour Authority, 2023, S. 25). According to the ELA report which is based on input from national labour inspectorates and parity social funds, the most significant and recurrent violations and abusive practices are related to letterbox or shell companies, non-respect of social and working conditions as regulated by law and collective agreements in the hosting country, bogus self-employment, fraudulent use of PDs A1 and illegal employment of TCNs. The authors of the report also note that fraudulent practices often are interlinked (e.g., illegal employment of TCNs or bogus-self-employment to letterbox companies).

According to SOKA-BAU<sup>38</sup> all these types of fraudulent practices can also be observed in the German construction sector. SOKA BAU specifies that posting companies are often locating their company headquarters as a letterbox company in a Member State with lower social and/or tax law requirements or worse working conditions. By this, they make use of the advantages of the Member State with for example lower social security contributions and post their employees to countries with higher social security levels and requirements. Such practice is **bogus posting**, since the company is a mere legal shell which does not carry out any business activities at the alleged headquarters. However, without strong cooperation between labour inspectorates and/or parity organisations such as SOKA BAU and authorities in the respective countries, it is difficult or even impossible to prove.

SOKA-BAU also continues to experience a high incidence of **bogus self-employment** in practice, where agencies or companies in Central and Eastern Europe make use of different legal regulations as regards the status of workers and self-employed and post them to Germany with the effect that due to the status of self-employment, they are not entitled for the paid leave scheme of SOKA-BAU and other social benefits and insurance rights. At the same time and due to a lack of detailed information, the clarification of the status of the workers according to German legal regulation can hardly be provided because of insufficient information. This is also a result of effective cross-border cooperation of administrations and stakeholders. As a result, unfair competition at the expense of the workers' employment and social security rights may happen frequently.

When it comes to **illegal employment of TCNs**, SOKA-BAU and construction sector social partners increasingly observe<sup>39</sup> that employees from third countries are sent to Germany via an agency (often a letterbox company) based in an EU Member State by means of the *Vander-Elst Visa practice*.<sup>40</sup> Workers from Bosnia-Herzegovina are posted via Slovenia with striking frequency. This often involves companies from third countries, which cannot prove a significant share of their economic activity in the EU Member State. The advantage of this practice for the employer is that it eliminates the need to engage in the bureaucratic, time-consuming and financially expensive application procedure that would be necessary for posting workers from non-EU countries that have concluded a bi-lateral agreement with Germany (e.g., Bosnia-Herzegovina, Macedonia, Serbia or Turkey). The employer thus saves, for example, both the contract and the duration fees that have to be paid to the Federal Employment Office, BA.

Illegal and abusive practices are always driven by the aim of employers to circumvent minimum employment and working conditions set by law in the receiving Member State, regarding wages, working hours and the occupational health and safety obligations. According to trade union support networks and projects such as *Fair Mobility*, underpayment practices have been the most frequent single problem of posted workers that seek the support of trade unions.

German trade unions therefore are strongly in favour of limiting the possibility of subcontracting and working with non-transparent subcontracting chains by introducing a general and comprehensive liability of the main contractor and by limiting the practice of awarding of contracts to subcontractors and sub-subcontractors. A subcontractor commissioned by a general contractor should not be allowed to pass on the contract.

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38 The following information is based on exchange and discussions with SOKA-BAU throughout 2024 in the context of this project as well as visiting a workshop that was organised by SOKA-BAU as in the context of the EU POST-MEET Project in summer 2024. In this context SOKA-BAU also kindly shared the written input that was delivered to the construction sector analysis of issues related to the enforcement of rules and other aspects in the European construction sector (European Labour Authority, 2023).

39 In 2023 and 2024 for example, practices of service companies and opaque subcontracting chains involved in the fibre-optic telecommunication network gained public interest because of frequent and massive violation of working time, health and safety and wage payment rules as well as social conditions of housing and accommodation.

40 The Vander-Elst Visa is a visa that authorises non-EU citizens to stay and work temporarily in a member state of the European Union. If a foreigner is properly employed in a posting country that is a member of the European Union or the European Economic Area and is temporarily working in Germany while retaining their labour law ties to their posting employer, they will receive a Vander-Elst visa for their stay in Germany.

SOKA-BAU has also highlighted problems and needs for improvement as regards data and information sharing, digitalisation and communication and collaboration across borders that would make it easier to identify and sanction problematic or illegal practices:

- There is a need to enhance and improve the availability of information on posting rules at the level of each Member State, including information on applicable collective agreements in line with Art. 5(4) of the Enforcement Directive 2014/67/EU. Still, most national websites on posting are in the original language and in English only, being hard to access for posted workers as well as for sending companies.
- German posting law provides for the instrument of client liability in the event of the non-payment of social contributions (§14) by the contractor. This makes it necessary for SOKA-BAU or other authorities to request information about the clients in order to enforce their liability. Unfortunately, this information too often does not exist or is not available. Therefore, it would be necessary to include the name of the client in the country of activity in the posting of workers declaration.
- Though SOKA-BAU closely collaborates with the respective authorities, the classification to the construction sector is hindered because it is only linked to the affiliation of the main client in Germany and because the sub-contractor is not obliged to provide information about its own sectoral belonging. This makes it practically impossible to determine for example which collective agreement would be applicable for the contractor.

## **1.2 Posting of workers from Germany**

This section quantifies the number of persons posted from Germany and describes their profile in detail (by receiving country, sector of activity, and duration) based on data provided by the Federal Ministry of Labour and Social Affairs on PDs A1 issued in 2023, the EU database on PDs A1 and the corresponding reports as well as the EU reports on data from national prior declaration tools. For limitations of these data sources see 1.3.

The section primarily examines PDs A1 issued under Article 12 BR (i.e., postings). However, from a labour law perspective, individuals holding a PD A1 issued under Article 13 BR (i.e., those working in two or more Member States) may also qualify as being 'posted' to another Member State. There is no information available on the characteristics of German employers that asked for a PD A1 issued under Art. 12.1 BR.

Based on data gathered on A1 certificates, Germany is not only the main receiving country but also the main sending country of posted workers in the EU. However, Germany is a net-sender, issuing more PDs A1 than receiving them according to Article 12 BR (De Wispelaere, De Smedt, & Pacolet, 2023b, p. 29).

### **2.2.1 Measuring the flow of posted workers from Germany**

In 2023, more than 2 million PDs A1 were issued by Germany (an increase of 25% compared to 2022 when more than 1.6 million PDs A1 were issued) as shown in *Table 10* below. Around 87% (1.75 million) were issued under Article 12 BR, of which 1.69 million (97%) issued for employed and 61 300 (3%) for self-employed persons. Germany is the main issuing Member State for PDs A1 in total as well as issued according to Article 12 BR.

**Table 10. Total number of PDs A1 issued by Germany, 2023**

	Number of PDs A1 issued	% of total
Article 12 - posting	1 755 357	87%
Posted workers	1 694 037	84%
Posted self-employed	61 320	3%
Article 13 - working in two or more States	95 890	4%
Employed, working in two or more States	90 021	4%
Other situation	5 869	0.3%
Other categories	165 019	8%
Total	2 016 266	100%

Source: Data sent by the Federal Ministry of Labour and Social Affairs (BMAS)

Furthermore, another 95 900 PDs A1 were issued for persons working in two or more Member States (under Article 13 BR). Finally, 8% of PDs A1 or 165 000 PDs A1 were issued in other categories (mainly for civil servants, namely 96%). Also, this category includes 674 PDs A1 issued according to the Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework.

Germany is the main issuing Member State for PDs A1 issued according to Article 12 BR and accounted for 50 % of issued PDs A1 by all Member States in 2023 (European Commission, 2025). The share increased in comparison to the previous years 2021 and 2022, however, staying below the share of 2019 and 2020 (see *Table 11*).

**Table 11. Number of PDs A1 issued by sending Member State (total and according to Article 12 BR), 2019-2023**

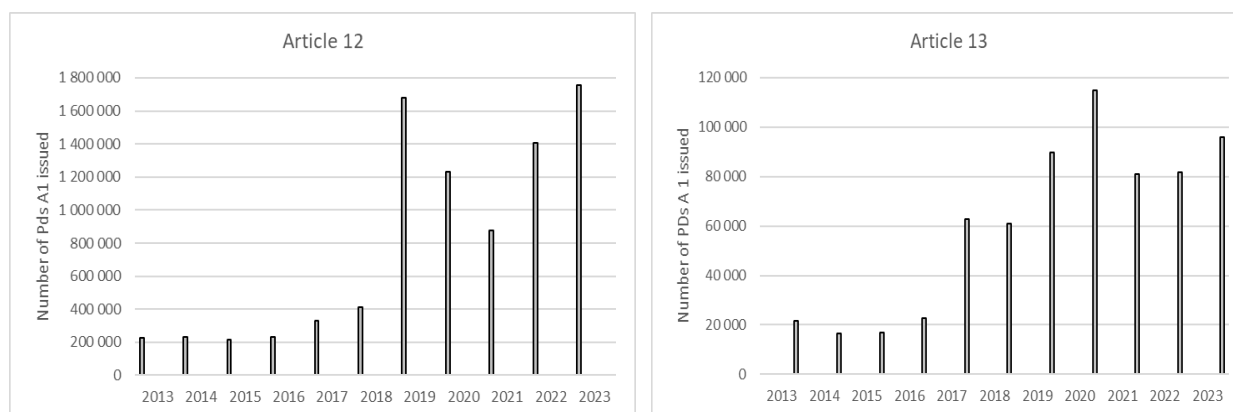
	2019	2020	2021	2022	2023
<i>Total</i>					
All Member States	4 649 742	3 762 860	3 646 509	4 642 024	5 542 153
DE	1 798 596	1 397 383	997 031	1 607 884	2 016 266
Share DE	38.68%	37.14%	27.34%	34.64%	36.38%
<i>According to Art. 12 BR</i>					
All Member States	3 208 235	2 426 979	2 205 434	3 013 841	3 583 056
DE	1 678 407	1 234 203	875 809	1 407 045	1 755 357
Share DE	52.32%	50.85%	39.71%	46.69%	48.99%

Source: (European Commission, 2025)

The number of PDs A1 issued under Article 12 BR remained rather stable until 2016, followed by a slight increase in 2017 and 2018 and an important increase of more than 300% in 2019. The increase in A1 certificates in 2029 was at least partly due to the switch to a digital system, accompanied by a major information campaign. Since 2019, data collection has improved, whereas previously there was a higher number of unreported cases. When the COVID-19 pandemic hit in 2020, the number decreased by 25% and again by 29% in 2021, afterwards recovering with a rise of 60% in 2022 and 24% in 2023. For PDs A1 issued under Article 13 BR, an important increase already took place in 2017. The increase in 2019 (+47%) was less pronounced than the one for those issued under Article 12 BR. Also, the number further increased in 2020 (+28%), experiencing a similar downturn in 2021, however, showing a less pronounced increase in 2022 (+4%) and 2023 (17%) (see *Figure 3*).



**Figure 3. Evolution of PDs A1 issued by Germany according to Article 12 BR (left panel) and Article 13 BR (right panel), 2013-2023**



Source: European Commission, 2024a and data provided by Ministry of Labour and Social Affairs (BMAS)

The shares of PDs A1 issued under Article 12 and 13 BR have decreased between 2013 and 2023 from 91% to 87% and from 6% to 4% respectively, while the share of the remaining PDs A1 has increased from 3% to 8%, especially due to an increase of PDs A1 issued for civil servants. The share of PDs A1 issued to self-employed posted from Germany according to Article 12 BR had decreased until 2020 when it reached 1.1%. In the following years it has been increasing, reaching 2.9% in 2021 and 3.5% in 2022, remaining stable in 2023 with again 3.5% (European Commission, 2024a).

Considering the total number of PDs A1 issued in 2023, these accounted for 4.2% of the German workforce. (De Wispelaere, Smedt, & Pacolet, 2024b). This share was 3.4% in 2022 (De Wispelaere, De Smedt, & Pacolet, 2023b), 2.2% in 2021 (De Wispelaere, De Smedt, & Pacolet, 2022b), 2.9% in 2020 (De Wispelaere, De Smedt, & Pacolet, 2021b) and 4% in 2019 (De Wispelaere, De Smedt, & Pacolet, 2020)). As for Germany for the years until 2022, there is no indication of individual persons involved and no number of persons in FTE available, no further concretisation is possible (De Wispelaere, De Smedt, & Pacolet, 2023b, pp. 32-33). For 2023, considering persons covered by Article 12, 2.4% of the German workforce was sent, and only 0.6% considering FTEs (De Wispelaere, Smedt, & Pacolet, 2024b). However, as commented by the Ministry of Labour and Social Affairs, the high number of PDs A1 issued does not reflect the actual number of persons posted as a large share of PDs A1 are issued for the same worker due to postings to several Member States and/or recurring postings.

As regards the fluctuation in the number of A1 data over time, it can be assumed that this is also due to the introduction of new rules (e.g. obligations for employers to make applications electronically) and more intensive guidance on rules and obligations by public authorities and social security institutions.

Regarding the number of persons registered, notifications and postings in the national declaration tools broken down for Germany as a sending Member State, in 2022, 11% of notifications, and 9% of postings originated from Germany (De Wispelaere, De Smedt, & Pacolet, 2024, p. 24). There has been a decrease for all three categories between 2019 and 2022. However, this decrease is more pronounced for the number of notifications and postings than for the number of registered workers (see Table 12).

**Table 12. Number of persons registered, notifications and postings in the national declaration tools, breakdown by sending Member State (Germany), 2019-2022**

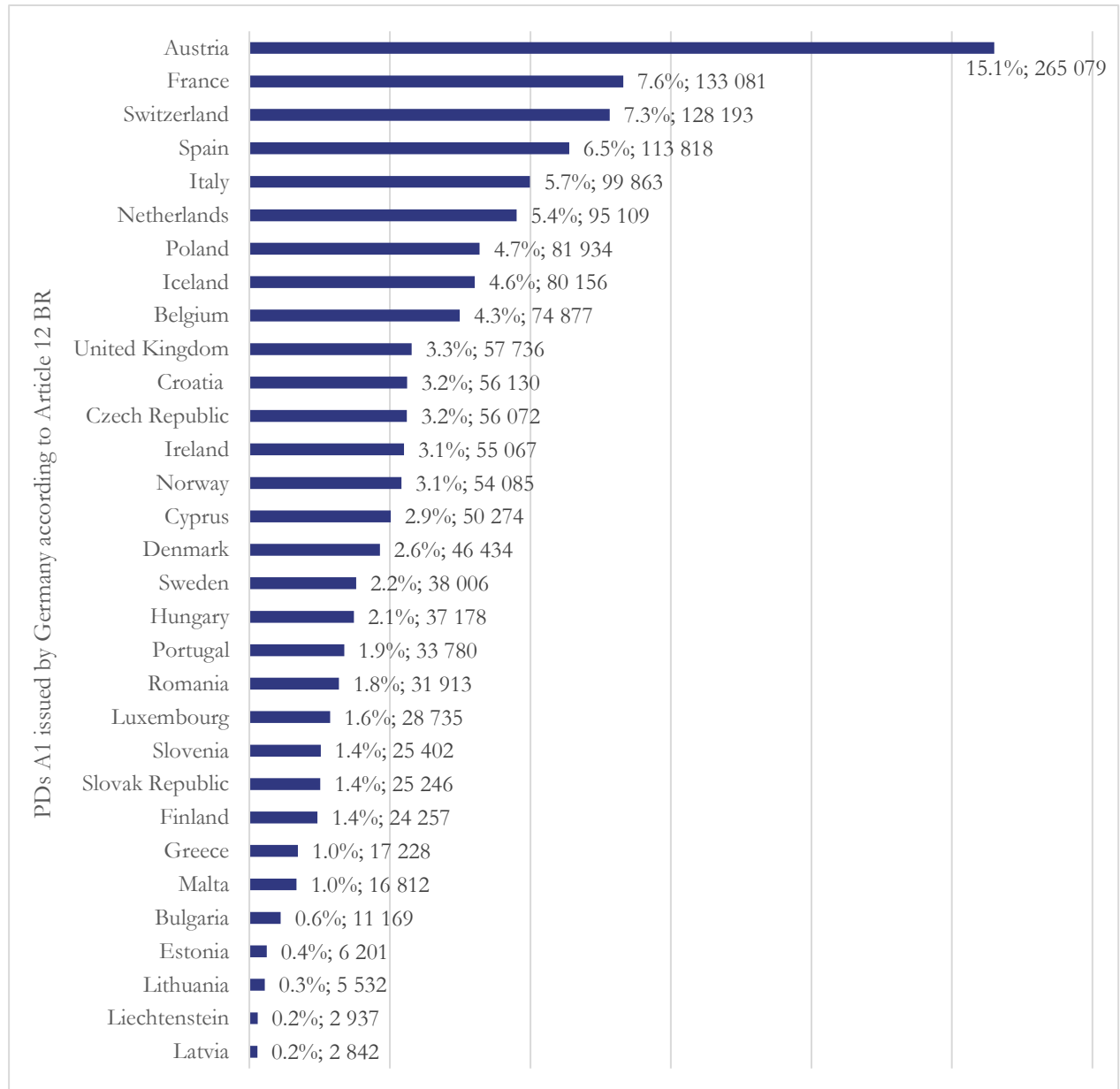
	2019	2020	2021	2022	2019-2022
Persons registered	173 465	142 851	161 878	169 315	-2.4%
Notifications	276 595	247 302	274 074	228 494	-17.4%
Postings	369 532	421 214	392 760	306 789	-17.0%

Source: (De Wispelaere, De Smedt, & Pacolet, 2021a), (2022a), (2023a), (2024)

### 2.2.2 Outflows of Germany posted workers by main receiving countries

Regarding PDs A1 issued by Germany for people posted to another country, based on data provided by the Federal Ministry of Labour and Social Affairs BMAS, Austria is the main receiving country (15.1% of PDs A1 issued by Germany in 2023). It is followed by France (7.6%) and Switzerland (7.3%) (see *Figure 4* below).

**Figure 4. PDs A1 issued by Germany according to Article 12 BR by receiving country, 2023 (% of total and total number)**



Source: data sent by the Federal Ministry of Labour and Social Affairs (BMAS)

According to data from the European A1 database, Austria has become the main receiving country in 2021 replacing the Netherlands (European Commission, 2024a), see *Table 13*).

**Table 13. PDs A1 issued by Germany according to Article 12 BR by top 10 main receiving countries, 2012, 2020-2023**

2012			2020			2021			2022			2023		
NL	37 699	17%	NL	317 887	26%	AT	166 004	19%	AT	244 818	17%	AT	26 5079	15%
AT	26 624	12%	AT	187 738	15%	FR	100 591	11%	FR	109 741	8%	FR	133 081	8%
CH	22 895	10%	FR	124 414	10%	CH	89 012	10%	CH	95 000	7%	CH	128 193	7%
FR	20 045	9%	CH	122 007	10%	NL	82 425	9%	NL	91 239	6%	ES	113 818	6%
BE	17 076	8%	IT	60 290	5%	IT	68 713	8%	ES	87 275	6%	IT	99 863	6%
ES	12 548	6%	BE	58 744	5%	PL	44 899	5%	IT	75 371	5%	NL	95 109	5%
IT	11 298	5%	PL	48 893	4%	BE	44 381	5%	PL	73 740	5%	PL	81 934	5%
UK	10 966	5%	CZ	44 830	4%	ES	43 425	5%	UK	73 301	5%	IS	80 156	5%
SE	8 533	4%	ES	42 711	3%	CZ	39 829	5%	BE	64 517	4%	BE	74 877	4%
LU	8 504	4%	UK	37 276	3%	HU	26 298	3%	EE	57 248	4%	UK	57 736	3%
Total <sup>41</sup>	221 653		1 234 203			874 956			1 443 516			1 755 146		

Source: data sent by the Federal Ministry of Labour and Social Affairs (BMAS)+ (European Commission, 2024a)

When looking at the data for 2022 provided within the prior declaration tools of other Member States as receiving countries for posted workers from Germany, 15% of all posted workers, 10% of notifications and 9% of postings originated from Germany. All main receiving countries of workers posted from Germany were located in Western Europe, with Austria receiving more than one third of posted workers (36% of posted workers, 35% of notifications and 46% of postings) and France (18% of posted workers, 22% of notifications and 27% of postings), followed by Belgium and the Netherlands for posted workers and notifications (De Wispelaere, De Smedt, & Pacolet, 2024).

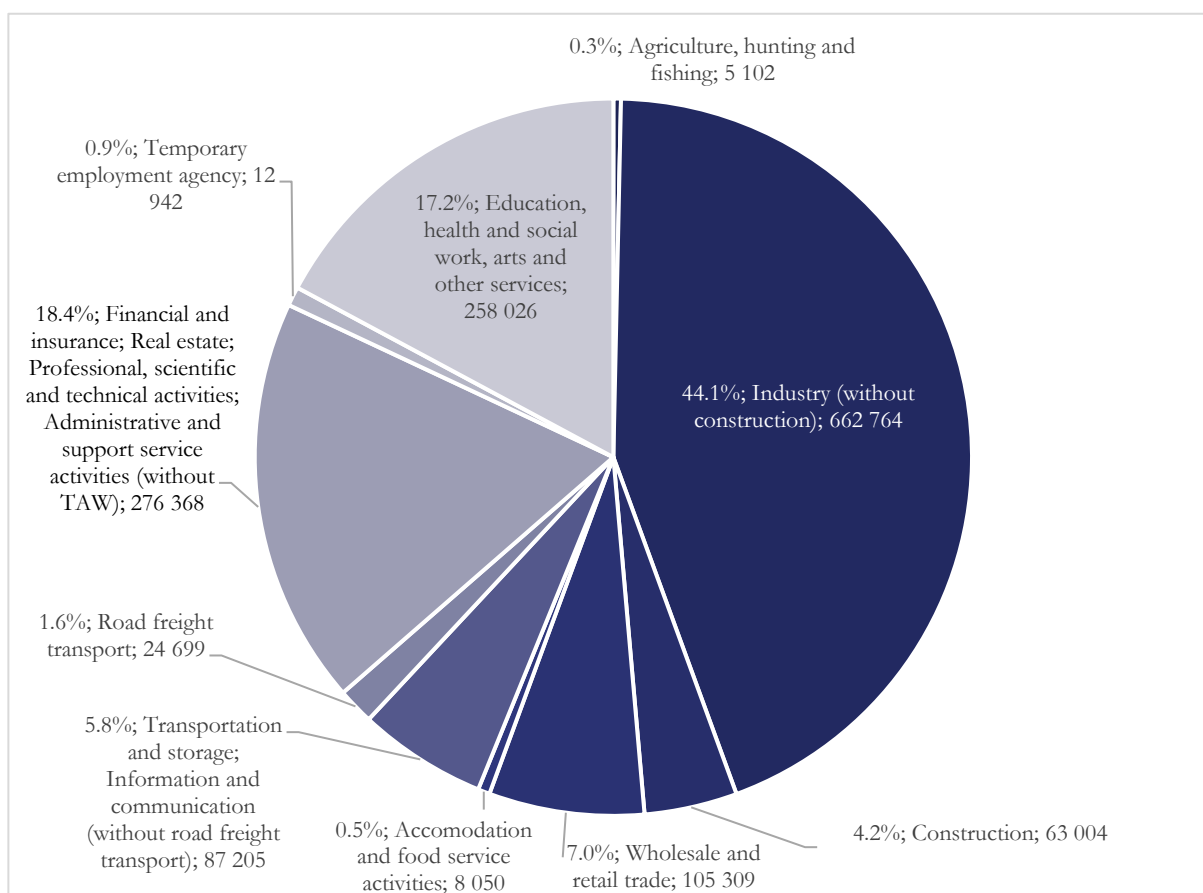
As regards TCNs, Germany mainly posts TCNs from Bosnia and Herzegovina, Turkey and Serbia to Austria, France and the Netherlands (European Labour Authority, 2023).

### 2.2.3 Outflows by sector of activity

While the breakdown is not available for all PDs A1 issued according to Art. 12 BR, in 2023, around 1.5 million have been attributed to a sector of activity. The majority was issued in the services sector (51%) where financial and insurance, real estate, professional, scientific and technical activities, administrative and support service activities (without TAW) with 18% and education, health and social work, arts and other services with 17% were the most important sub-sectors. Around 44% of PDs A1 for which a sector was indicated were issued in the industry sector (see *Figure 5*).

<sup>41</sup> Total may differ from data reported elsewhere in the report as the totals reported under different questions are diverging in the A1 database.

**Figure 5. PDs A1 issued by Germany according to Article 12 BR by sector of activity, 2023**



Source: data sent by the Federal Ministry of Labour and Social Affairs (BMAS)

Most of the PDs A1 issued in the industry sector were for postings to Austria (13%), Iceland (8%) and Switzerland (7%). For financial and insurance, real estate, professional, scientific and technical activities, administrative and support service activities (without TAW) it was Austria (14%), Spain (5%) and Iceland (6%) and for education, health and social work, arts and other services Austria (16%) and Switzerland and Spain with 6% each.

In 2023, temporary employment agencies employed only a small percentage of persons from Germany falling under Article 12 (0.9%, a total of 12,942 PDs A1)<sup>42</sup>, representing a decrease from the previous year (13,234 in 2022) but an increase since 2021 (10,847) (European Commission, 2024a). Main receiving countries are Austria (2,660 = 20.6% of all PDs A1 issued in the temporary employment sector from Germany), the Netherlands (1,336 = 10.3%), France (826 = 6.4%) and Spain (784 = 6.1%).

## 2.2.4 Number of individual persons who received a PD A1 and duration of posting

According to data provided by the Federal Ministry of Labour and Social Affairs BMAS, in 2023, the average duration in days of all PDs A1 issued according to Art. 12 BR was 39 days. The longest average duration was stated for postings to Liechtenstein with 140 days, while Czechia and Romania accounted for the shortest duration of 20 days. The total average duration per individual person involved was 69 days, with Liechtenstein having the longest duration of 182 days, followed by Luxembourg (130 days) and Iceland (126 days) (see *Table 14*). In comparison, in 2022, 851 647 persons received a PD A1 issued by Germany, and the average validity period of a PD A1 under Article 12 BR granted by Germany was 21

<sup>42</sup> Only taking into account those PDsA1 for which a sectoral attribution was possible.

days. The average duration per individual person involved was 35 days (De Wispelaere, De Smedt, & Pacolet, 2023b). A breakdown by number of days or the number of business trips is not available.<sup>43</sup>

**Table 14. Average duration in days of PDs A1 issued according to Art. 12 BR, by receiving country (single destination only), 2023**

Country	Number of PDs A1 issue (Art. 12)	Number of 'unique' persons who received a PD A1	Average duration in days of all PDs A1 issued	Number of times sent abroad	Average duration in days per person involved
Belgium	74 877	44 258	35	1.7	59
Bulgaria	11 169	6 927	32	1.6	52
Czech Republic	56 072	24 287	20	2.3	46
Denmark	46 434	30 753	33	1.5	50
Estonia	6 201	5 311	49	1.2	57
Ireland	55 067	46 466	24	1.2	28
Greece	17 228	12 765	35	1.3	47
Spain	113 818	62 661	23	1.8	42
France	133 081	55 119	38	2.4	92
Croatia	56 130	46 964	32	1.2	38
Italy	99 863	47 975	20	2.1	42
Cyprus	50 274	38 221	70	1.3	92
Latvia	2 842	2 163	49	1.3	64
Lithuania	5 532	3 667	47	1.5	71
Luxembourg	28 735	15 285	69	1.9	130
Hungary	37 178	14 623	24	2.5	61
Malta	16 812	13 229	46	1.3	58
Netherlands	95 109	43 436	39	2.2	85
Austria	265 079	145 389	36	1.8	66
Poland	81 934	46 508	22	1.8	39
Portugal	33 780	22 908	26	1,5	38
Romania	31 913	18 808	20	1.7	34
Slovenia	25 402	19 108	23	1.3	31
Slovak Republic	25 246	13 532	21	1.9	39
Finland	24 257	17 294	29	1.4	41
Sweden	38 006	17 672	31	2.2	67
United Kingdom	57 736	27 465	22	2.1	46
Iceland	80 156	55 801	88	1.4	126
Liechtenstein	2 937	2 256	140	1.3	182
Norway	54 085	43 187	40	1.3	50
Switzerland	128 193	51 544	22	1.5	55
Total	1 755 146	995 582	39	1.8	69

*Source: data sent by the Federal Ministry of Labour and Social Affairs (BMAS)*

<sup>43</sup> In the national report on Germany in the Posting.STAT1 project it was reported that in 2020, 82% of outgoing postings last one week or less and many of them can be considered business trips. See IFO Institute 2022, p. 9.

## 3 Enforcement of posting rules

### 3.1 Enforcement bodies involved in the enforcement of the posting rules

The enforcement of posting rules in Germany involves a various authorities depending on the subject of control. Generally, the German Pension Insurance (DRV) handling social security rules is responsible for the PD A1. The German Customs Authority (*Zollbehörde*) with its Financial Control of Undeclared Work (FKS) is responsible for processing the notifications of posted workers and the enforcement of working conditions, in particular with regard to remuneration. Occupational health and safety authorities of the federal states are responsible for the enforcement of working conditions regarding health and safety. Additionally, the Federal Office for Logistics and Mobility (BALM) carries out road checks on driving times and resting periods in road transport ensuring safety and compliance. Various bodies, including trade supervisory offices and employers' liability insurance associations, are involved in inspections.

As regards the prior declarations/notifications, it is important to note that there are different requirements for different sectors and types of posted workers, e.g., for workers posted in sensitive sectors defined in the German Minimum Wage Act, workers posted by temporary agencies or posted workers in road transport.<sup>44</sup>

In addition to this duality of functions and responsibilities, all bodies involved in the enforcement of rules mirror the federal structure of government and administration in Germany, i.e., there are at least federal and often also regional or local bodies involved in the execution of certain functions, including carrying out inspections.

In contrast to many other European countries and beyond, Germany does not have a central labour inspectorate responsible for checking compliance with labour and social security legislation. Instead, there is a dual system of controlling compliance with labour law, including health and safety of work. On the one hand, there are the trade supervisory offices (*Gewerbeaufsichtsämter*) that exist at the federal state and district or local level and on the other hand, the employers' liability insurance associations (*Berufsgenossenschaften*) that have similar tasks but focus more narrowly on specific occupational groups/economic sectors (Bosch, Hüttenhoff, & Weinkopf, 2023, p. 99). In recent decades, there have been repeated attempts to unite these 'dual responsibilities' in a single authority. However, this has so far failed due to the different structures and funding and a lack of political will (Kohte W. , 2021).

The main authority for control of employer duties and of working conditions is the German Customs administration (*Zollverwaltung*) that is governed by the Ministry of Finance and its regional/federal state level and local units. The FKS (Financial Control of Undeclared Work) operates under the 2004 Act to Combat Undeclared Work and Unlawful Employment (*SchwarzArbG*). Its inspections cover a broad range of areas, including employer reporting to social security agencies, compliance with the Minimum Wage Act (*MiLoG*), Posted Workers Act (*AEntG*), and Temporary Employment Act (*AÜG*), the accuracy of employment certificates, and the legality of social security benefits, work permits, and tax obligations.

The FKS mainly audits sectors prone to violations, as identified in Section 2a of *SchwarzArbG*. These high-risk industries (i.e. construction and dismantling of trade fairs and exhibitions, construction industry, meat industry, forestry, catering and accommodation industry, building cleaning industry, passenger transportation, prostitution trade, show business, freight forwarding, transportation and related logistics industry, security and safety services) require workers to carry ID, and 70% of FKS checks focus on these sectors. Wage-related inspections only cover state contributions and taxes, while enforcing net wages is up to individual employees.

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<sup>44</sup> More detailed information in English available [here](#).



The FKS has broad inspection powers, including questioning staff and examining business records. Inspectors can enter business premises during working hours and review documents like pay slips, timesheets, and contracts. They can also stop vehicles to check occupants' identity documents. Both employers and employees must cooperate during inspections, but if suspicion arises, the inspection turns into an investigation, and cooperation is no longer mandatory.

The FKS applies a comprehensive approach and examines all relevant areas, including social security contributions and the granting of minimum wages in accordance with the Minimum Wage Act, the Posted Workers Act, and the Temporary Employment Act. However, minimum wage compliance is not prioritised and is reviewed as part of broader audits (Bosch, Hüttenhoff, & Weinkopf, 2023, pp. 99-100).

In the context of executing measures of controlling and implementing rules, the custom authorities will cooperate with a large number of further actors that are defined in the “Act to Combat Undeclared Work and Unlawful Employment” (*SchwarzArbG, Gesetz zur Bekämpfung der Schwarzarbeit und illegalen Beschäftigung*).<sup>45</sup>

Depending on the specific focus of inspections and the need to cross-checking of data, the following 20 bodies and authorities may become involved<sup>46</sup>:

- Fiscal authorities,
- Federal Employment Agency, including in its capacity as family benefits agency,
- Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway,
- Collection agencies (section 28i of Book IV of the Social Code),
- Pension insurance providers,
- Accident insurance providers,
- Joint entities and the approved local authority providers under Book II of the Social Code and the Federal Employment Agency in its capacity as the entity responsible for the centrally managed IT procedures pursuant to section 50 (3) of Book II of the Social Code,
- Authorities responsible under the Asylum Seekers Benefits Act,
- Authorities specified in section 71 (1) to (3) of the Residence Act,
- The Federal Office for Logistics and Mobility<sup>47</sup>
- Authorities responsible under the legislation of the respective Land for authorising and monitoring occasional transport services using motor vehicles pursuant to section 46 of the Passenger Transport Act,
- Authorities responsible under the legislation of the respective Land for licensing and supervising commercial road haulage,
- Authorities responsible for employment protection in the respective Land,
- Upon request and in individual cases, the police authorities of the Federation and the Länder,
- Authorities responsible under the legislation of the respective Land for prosecuting and punishing regulatory offences,
- Bodies responsible for processing business registrations pursuant to section 14 of the Trade Regulation Code,
- Agencies responsible under the legislation of the respective Land for checking compliance with Land procurement laws and Land laws on compliance with collective labour agreements,
- Authorities responsible under the legislation of the respective Land for receiving the registration of prostitutes pursuant to section 3 of the Prostitute Protection Act and for issuing permits to businesspersons in the area of prostitution pursuant to section 12 of the Prostitute Protection Act,
- Authorities responsible under Land legislation for issuing permits pursuant to section 34a of the Trade Regulation Code, and

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<sup>45</sup> § 2 of the Act to Combat Undeclared Work and Unlawful Employment. Available in an English version [here](#).

<sup>46</sup> Listed in §2 (4) of the Act to Combat Undeclared Work and Unlawful Employment.

<sup>47</sup> BALM, since January 2023, succeeding the Federal Office for Goods Transport (BAG),

- Common institutions of the parties to collective agreements within the meaning of section 4 (2) of the Collective Agreements Act.

When it comes to posting drivers in the road transport sector, the Federal Office for Logistics and Mobility (BALM, *Bundesamt für Logistik und Mobilität*) also plays a role carrying out inspections on German federal highways and trunk roads. The BALM's inspection activities include so-called road inspections in accordance with the German Road Haulage Act (*GüKG*) and toll inspections in accordance with the German Federal Trunk Road Toll Act (*BFStrMG*). It also detects infringements detected during roadside checks in accordance with regulation (EC) No. 561/2006 on the harmonisation of certain social legislation relating to road transport, regulation (EU) No. 165/2014 on tachographs in road traffic and the “European Agreement concerning the work of crews of vehicles engaged in international Road Transport”.

Still, the BALM is not directly involved in the implementation of the Directive (EU) 2020/1057 and the German Act on the regulation of the posting of drivers in the road transport sector and on the cross-border enforcement of the law on the posting of drivers (*Gesetz zur Regelung der Entsendung von Kraftfahrern und Kraftfahrerinnen im Straßenverkehrssektor und zur grenzüberschreitenden Durchsetzung des Entsenderechts*).<sup>48</sup> However, it may carry out inspections if the driver is considered a posted worker regarding the aspects of working conditions including driving time, breaks, rest periods, work schedules and installed control devices (tachographs).

### 3.2 Number of social inspectors involved in the enforcement of the posting rules

As mentioned before, the main enforcement body of posting rules is the German Customs Authority. Depending on the concrete purpose of inspections, the custom officers may cooperate with staff of other bodies (see long list above in *section 3.1*), including police officers. Custom officers have quite strong executive power and authority when controlling individuals or checking documents.<sup>49</sup>

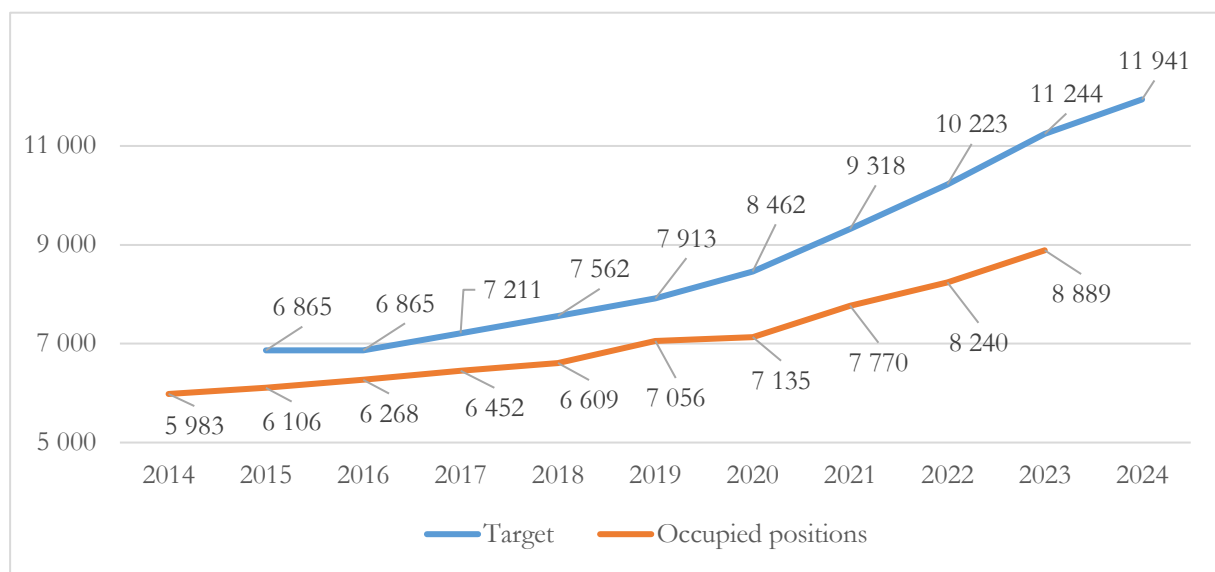
Pursuant to §14 of the *SchwarzArbG*, the customs authorities have the same powers as the police enforcement authorities under the Code of Criminal Procedure and the Administrative Offences Act when prosecuting criminal and/or administrative offences. The FKS officers are therefore investigators of the public prosecutor's office.

According to the Ministry of Finance (responsible for German Customs), it is not possible to provide the number of inspectors involved in control measures/inspections related to posting of workers. The reason is the very comprehensive catalogue of topics and rules that are controlled. These are defined in §2 of the *SchwarzArbG* and include not only provisions of the posting of workers act but also social security obligations, obligations under the minimum wage act, as well as many other issues such as residence and work permit status of foreign citizens. As there are no officers that are exclusively involved in control activities related to posting, it is not possible to provide any data on this matter. There is only data for the overall number of officers involved in issues of undeclared and unlawful work: According to information from the Ministry of Finance, the total number of officers in the respective unit “Financial Control of Undeclared Work” (*Finanzkontrolle Schwarzarbeit*, FKS) was 9 500 in July 2025. The number of FKS staff has increased steadily over the last years. However, as *Figure 6* below shows, there is also an increasing gap between planned and actual FKS staff (more than 20% in 2023) which is due to labour shortage and lack of training capacities. Large numbers of staff will soon be retiring. Although training capacities have been increased, this is not enough to close the gap.

<sup>48</sup> Formal responsibility lies with the Federal Ministry of Transport (Bundesministerium für Verkehr, BMV) which is also the supervisory authority of BALM.

<sup>49</sup> These are listed in §3 and 4 in the Act to Combat Undeclared Work and Unlawful Employment (*SchwarzArbG*). Available in an English [here](#).

**Figure 6. Posts and positions filled in the Financial Control Unit for Undeclared Work, 2014-2024<sup>50</sup>**



Source: (Deutscher Bundestag, 2022a), (Deutscher Bundestag, 2023a), (Deutscher Bundestag, 2024a), (Deutscher Bundestag, 2024b)

### 3.3 Number of inspections related to the enforcement of the posting rules

Inspections according to the FKS audits are always comprehensive and are carried out to determine whether employers have properly registered their employees for social security, whether social benefits are or have been wrongly received, whether foreigners have the necessary work permits or residence permits to take up employment and also whether the minimum working conditions are being complied with or whether exploitative working conditions exist.<sup>51</sup>

As defined in §2 of the *SchwarzArbG*, the following issues are examined in the context of inspections:

1. the obligations pursuant to section 28a of Book IV of the Social Code arising from work or services are being or have been fulfilled,
2. social benefits pursuant to Books II and III of the Social Code are being claimed unlawfully in connection with carrying out work or services or pretending to carry out work or services,
3. information submitted by the employer that is relevant for benefits pursuant to Books II and III of the Social Code has been sufficiently substantiated,
4. Foreign nationals
  - a) in violation of the Residence Act, are being employed or commissioned, or have been employed or commissioned, or
  - b) in violation of the Book III of the Social Code, are being employed or have been employed,
5. Employees
  - a) are being, or have been, supplied or leased without the permit required under the Act on Temporary Agency Work,
  - b) are being, or have been, supplied or leased in violation of the provisions set out in the Act on Temporary Agency Work, or
  - c) are being, or have been, supplied or leased in violation of the Act to Secure Workers' Rights in the Meat Industry,

<sup>50</sup> The figures on the development of the number of occupied positions do not include the shares for supporting processes such as organisation, personnel, budget, service, training and continuing education contained in the planned/staffing additions (target). The plan/position additions also include pro rata plan/positions for supporting processes such as organisation, personnel, budget, service as well as training and further education.

<sup>51</sup> Website German Customs: see [https://www.zoll.de/EN/Home/home\\_node.html](https://www.zoll.de/EN/Home/home_node.html)

6. The working conditions pursuant to the Minimum Wage Act, the Posted Workers Act and the Act on Temporary Agency Work, in combination with a statutory instrument pursuant to the Act on Temporary Agency Work, are being or have been observed,
7. Workers are being or have been employed under exploitative working conditions,
8. Labour is being or has been offered, or demand is being or has been created for labour, in a public space in violation of the Act to Secure Workers' Rights in the Meat Industry,
  - a) business or an overarching organisation where slaughtering is carried out, carcasses are cut up or meat is processed, is not or has not been operated by a single owner,
  - b) another party is or has been wholly or partially allowed to use a business or an overarching organisation where slaughtering is carried out, carcasses are cut up or meat is processed, or
  - c) persons are working or have worked in the area of slaughter, including the cutting up of carcasses, and in the area of meat processing.

To fulfil their reporting obligations pursuant to section 6 (1) sentence 1 in conjunction with section 6 (4) no 4, the customs authorities also check, as part of their inspections, whether there are indications that taxpayers have not fulfilled their tax obligations in connection with the provision of work or services. In order to fulfil their reporting obligations, the customs authorities also check, as part of their inspections, whether there are indications that recipients of child benefit payments are not fulfilling their obligations to cooperate.

The competent federal states' revenue authorities are responsible for checking compliance with the tax requirements set out in section 1 (2) sentence 1 no 2, and the competent family benefits agencies are responsible for checking compliance with the cooperation obligations relating to child benefit payments.

The customs authorities are entitled to participate in inspections by the Länder revenue authorities and the Federal Employment Agency's family benefits agencies. The principles of the cooperation between the customs authorities and the Länder revenue authorities are determined by the highest revenue authorities of the Federation and the Länder in mutual agreement. The principles of the cooperation between the customs authorities and the Federal Employment Agency's family benefits agencies are determined by the customs authorities and the Federal Employment Agency's family benefits agencies in consultation with the competent supervisory authorities.

The authorities responsible under the legislation of the respective Land for prosecuting and punishing administrative offences as described in this Act inspect whether

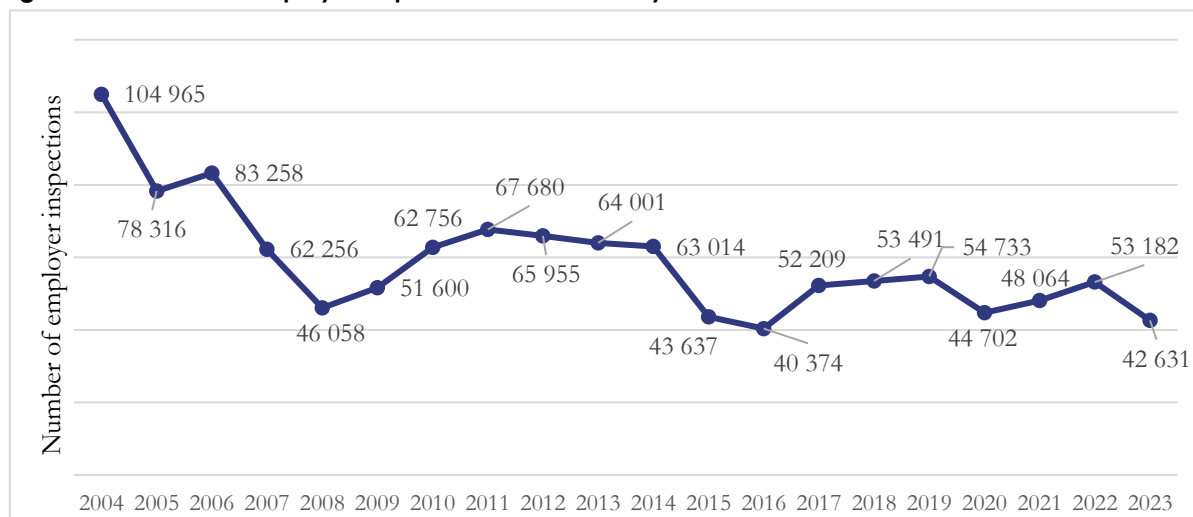
1. the obligation to report the opening of an independent business operating from a fixed location (section 14 of the Trade Regulation Code) has been fulfilled or the required itinerant trader's licence (section 55 of the Trade Regulation Code) has been obtained.
2. a craft or trade for which a licence is required is being carried out as an independent business operating from a fixed location and has been registered in the trade and craft register.

Since 2004, the FKS has focused on social security fraud and minimum wage enforcement, supervised by the Federal Ministry of Finance. Following a risk-based approach, inspections are proactive, reactive, and random, though random inspections were reduced after 2014. In 2016, a restructuring merged several Customs offices into the General Customs Directorate, centralizing oversight. The FKS functions were previously divided into prevention, audits, and sanctions but were streamlined in 2014 to improve monitoring of high-risk sectors.

According to a recent study, despite added staff, high turnover and unfilled posts have hindered effectiveness of the FKS. Decentralised management has reduced inspection coverage, drawing criticism from unions who favour centralised oversight, while employers support the focus on targeted inspections over frequency (Bosch, Hüttenhoff, & Weinkopf, 2023, pp. 102-107).

The term "inspections" is not defined in the *SchwarzArbG*; the FKS considers them to be employer audits. In its work statistics, the FKS does not differentiate between investigations initiated following an employer audit and those based on specific tips or other findings (Deutscher Bundestag, 2023a). As described above, there is no data available for the inspections carried out by the German Customs Administrations broken down to those only related to the enforcement of the posting rules. However, in the domain of “Undeclared work and illegal employment”, the total number of employers inspected can be indicated as shown in *Figure 7* below.

**Figure 7. Number of employer inspections carried out by the FKS 2004-2023**



Source: (German customs, 2024)

The FKS inspections in Germany have fluctuated since 2004, initially high to signal a crackdown on undeclared work. However, it was later realised that a focus on inspection quantity alone did not improve detection rates. By 2008, checks dropped by 50%, resurged around 2011 with legislative changes, but decreased again as the minimum wage was introduced in 2015, emphasizing “quality over quantity” with targeted, risk-based inspections. The decline was also linked to the restructuring of the FKS in 2014, which reduced regular on-site checks. The shift to in-depth document reviews aimed to catch organised violations but reduced total inspections. Minimum wage enforcement initially focused on educating employers, affecting inspection numbers and audit time.

Beyond the inspection practice of FKS, general challenges persist due to limited technical resources, insufficient data on penalties enforced, legal hurdles in collecting back wages, and difficulty investigating minimum wage cases, especially with employees reluctant to testify.<sup>52</sup> (Bosch, Hüttenhoff, & Weinkopf, 2023, pp. 115-125). According to the cited source, the police trade union GdP union estimates that often there is a lack of the technical equipment needed to carry out more intensive checks, e.g., more comprehensive provision of licenses and hardware for the checks.

During the COVID-19 pandemic, efforts were made to ensure that the FKS remained operational while adhering to health and safety measures for employees. However, comparing the 2022 data requested with previous years provides only limited insight. Many sectors were significantly affected by pandemic-related restrictions, which influenced the work and outcomes of the FKS. Additionally, the increased efforts to protect employees and staff absences due to quarantine impacted their ability to carry out tasks (Deutscher Bundestag, 2023a).

<sup>52</sup> According to a comment of the BMF, it can be assumed that violations of the minimum wage are not reported or detected because employees – especially those in precarious employment or foreign workers – are reluctant to report such violations for fear of losing their jobs (due to dependence on their employer) or because they are unaware of their rights. This sometimes leads to employees providing false information, particularly when registering their personal details, and falsely stating the minimum wage instead of the wage actually paid, to their own disadvantage.

It is also important to know that there is a focus of inspections on so-called “focal sectors”, including for example those mentioned in the §2 of the *Schwarz-ArbG* (e.g. freight transport and logistics) but not restricted to them. In such sectors nation-wide coordinated or regional inspections are carried out, e.g., in 2019 and 2021 (Deutscher Bundestag, 2023c). The following *Table 15* shows the total number of employer inspections in sectors with most inspection throughout the years 2019 to 2023, again relating to all regulations (not only the enforcement of posting rules). With the exception of the care sector and guard and security services, the number of inspections was smaller in 2023 than in 2019.

**Table 15. Number of employer inspections carried out by the FKS by sector, 2019-2023**

Sector	Number of employer inspections per year				
	2019	2020	2021	2022	2023
Main or ancillary building industry*	13 862	13 505	15 700	14 858	11 765
Restaurants and accommodation	9 612	6 577	5 585	8 818	8 605
Forwarding, transportation and related logistics industry	6 136	4 485	5 575	4 308	3 041
<u>Hairdressing and beauty salons</u>	<u>2 338</u>	<u>1 924</u>	<u>1 265</u>	<u>3 919</u>	<u>1 576</u>
Passenger transportation	1 368	923	879	1 910	1 299
Facility cleaning services	1437	1 246	2 499	1 528	1 230
Care sector	406	363	547	1 743	1 191
Petrol station stores, kiosks and beverage retailers	2 279	1 214	1 625	1 277	1 134
Guard and security services	1	45	744	802	863
Temporary employment	1 569	583	662	678	814
Agriculture	707	1 194	829	599	395
Meat industry	340	522	685	578	232

\* Including roofers, electricians, scaffolding, painters and varnishers, stonemasons and sculptors

Source: (Deutscher Bundestag, 2024c), (Deutscher Bundestag, 2023a)

However, the way industries are categorised in statistics of the FKS is continuously reviewed and updated, taking into account risk management insights, legal changes, and wage trends. As a result, the industry classifications in the 2022 statistics differ from those in 2019, though this does not lead to double counting. The detailed analyses of FKS work results are based on specific reference dates, and ongoing quality checks by the General Customs Directorate may lead to adjustments in individual figures over time (Deutscher Bundestag, 2023a).

Regarding the BALM, statistics on overall violations regarding driving times, breaks, rest periods, work schedules and installed control devices (tachographs) broken down by type of transport and nationality are provided. Still, data does not show whether the driver is a posted worker or not, as the BALM controls all drivers and vehicles irrespective of their status regarding posting (see *Table 16* below).

**Table 16. Results of the checks in driving personnel law by the Federal Office for Logistics and Mobility, (BALM) 2023**

	Freight traffic			Passenger traffic		
	Residents	Non-residents	Total	Residents	Non-residents	Total
Vehicles inspected and objected to under driving personnel law						
Vehicles checked	28 189	79 001	107 190	484	294	778
Vehicles objected	5 627	12 834	18 461	130	75	205
Objection rate	19.96%	16.25%	17.22%	26.86%	25.60%	26.3%
Total infringements related to EU Regulation 561/2006 and AETR*	6 961	18 719	25 680	105	49	154



Driving time	1 582	5 780	7 362	10	1	11
Breaks	2 593	2 908	5 501	29	2	31
Rest periods	2 786	10 031	12 817	66	46	112
Work schedules	0	0	0	0	0	0
Total infringements related to EU Regulation 3821/8541 and AETR	35 149	43 068	78 217	617	332	949

\* *European Agreement concerning the work of crews of vehicles engaged in international road transport*

Source: (Bundesamt für Logistik und Mobilität, 2024)

### 3.3.1. Challenges for inspections and enforcement

According to recent assessments in the context of research studies, the work of the FKS faces several challenges. It has been highlighted for example that the organisational structure of customs, which includes both the FKS and Customs Investigation, suffers from inefficiencies due to resource fragmentation. The 2014 reform, which merged inspection roles, also led to a reduction in random inspections and a decline in overall inspection numbers, particularly after the introduction of the minimum wage. There are difficulties in developing a unified monitoring strategy and a corporate identity across regional offices, leading to inconsistencies in inspection approaches. The decentralised nature of control strategies, combined with insufficient leadership, has limited FKS's effectiveness. The 2014 reform also led to a high turnover of experienced staff, further complicating efforts to improve inspection quality (Bosch, Hüttenhoff, & Weinkopf, 2023).

It has also been noted that the FKS is characterised by a low inspection rate. In 2023, just under 43 000 employers were inspected, affecting 1.4% of all companies. This means that every employer is inspected on average once in around 72 years. There were 20% less inspections in 2023 than in the previous year. The aim is no longer to carry out a certain number of inspections, as the Federal Audit Office (*Bundesrechnungshof*) had criticised the fact that the quantitative targets set the wrong incentives (Bundesrechnungshof, 2022).

It has also been noted that the number of dropped cases has risen sharply since 2019. One of the reasons for this is that the public prosecutor's offices lack capacity. This is also related to the legal requirements, e.g., regarding recording working hours. This does not have to be available on a daily basis, so that it is possible to send it to the FKS only after the check has been carried out and it can still be adjusted. If customs want to be successful, it is dependent on the willingness of employees to provide information (Scharfenberg, 2024).

When it comes to problematic practices, work of posted construction workers often is (partly) undeclared, with contracts misrepresenting hours and activities. Extra hours are sometimes paid in cash, wages split among subcontractors, and actual work exceeding recorded hours, leading to low pension contributions. Many earn below the agreed or minimum wage. When customs sanction a subcontractor, companies dissolve and reappear under a new name, continuing illegal employment. Inspections often result in job and housing loss for workers. Employers' wage violations go unnoticed, and workers must sue to recover unpaid wages. In line with its legal mandate, FKS focuses on tax and social security recovery, not labour rights, discouraging workers from reporting violations (Scharfenberg, 2024).

Other commentators have highlighted challenges in enforcing the A1 certificate for employee postings in the EU, include late applications, often only during inspections which weakens the effectiveness of inspections and controls. Also, industry classification errors based on NACE codes can lead to misallocations, affecting social fund contributions in Germany. Since 2005, a central database of posting certificates (A1 or E 101) has been maintained at the Data Center of the German Pension Insurance (DRV), aimed at combating illegal work and detecting abuse and fraud. Since 1 August 2019, this database has received internal certificates electronically via the EESSI system. Authorities responsible for

inspections, such as the FKS, the statutory accident insurance inspection services, and pension auditors, make around 40 000 queries per year to check, among other things, if an A1 certificate is a forgery. Initially, the General Customs Directorate could not communicate via the EESSI system, but it is now connected through the Pension Insurance's Access Point, allowing requests for verification or withdrawal of A1 certificates to be processed electronically (Kärcher & Walser, 2023).<sup>53</sup>

The enforcement of occupational health and safety regulations for posted workers faces persistent challenges. These workers often operate in linguistically and culturally isolated environments, increasing their risk of accidents and health issues. Despite EU Directive 96/71/EC and German laws like §2 *AEntG* and §8 *ArbSchG*, implementation remains insufficient. Authorities lack access to crucial information for effective monitoring, and communication in workers' native languages is limited. Sector-specific improvements, such as construction site regulations and meat industry reforms, show progress but are not widely generalised. Trade union initiatives like “*Faire Mobilität*” offer some support but cannot replace robust state enforcement. Recent legislative changes, including the 2021 Occupational Health and Safety Control Act (*Arbeitsschutzkontrollgesetz*)<sup>54</sup>, aim to strengthen oversight but do not address the unique needs of posted workers. Enhanced multilingual communication, stronger accountability for German employers, and collaboration between authorities, trade unions, and works councils are critical to bridging enforcement gaps. While there has been incremental progress, systemic reforms are needed to ensure adequate protections for posted workers (Kohte, 2021)

### 3.4 Infringements found

According to its legal mandate, the FKS distinguishes between administrative and criminal offenses. Administrative offenses, defined under the Administrative Offenses Act (*OWiG*), include violations like withholding the minimum wage or not keeping time records. These offenses can result in fines up to € 500 000, depending on the severity, or asset forfeiture if unlawful profits were made. Failing to cooperate with inspections or not providing required documents (e.g., social security registrations) also constitutes an administrative offense. In criminal cases, the FKS acts on behalf of the public prosecutor's office, handling serious offenses such as withholding wages and social security contributions (under Section 266a of the Criminal Code) and social benefit fraud (Section 263). Criminal penalties include fines or imprisonment, depending on the case. The FKS's role includes gathering evidence, conducting searches, and making provisional arrests in these investigations (Bosch, Hüttenhoff, & Weinkopf, 2023, pp. 101-102).

As mentioned above, a German parliamentary inquiry requested data on administrative offense proceedings under the “Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany” (*AEntG*), categorised by year, sector, and legal basis. However, comparing 2022 figures with previous years is of limited value due to the impact of COVID-19 measures on enforcement activities. Changes in sector classification within the FKS statistics further complicate comparisons, as ongoing adjustments reflect legal and economic developments. Additionally, the FKS statistics do not differentiate between cases initiated through employer audits and those triggered by external information or findings (Deutscher Bundestag, 2023b).

The following *Table 17* shows the number of initiated administrative offence proceedings regarding the following sections of the *AEntG*<sup>55 56</sup>

<sup>53</sup> According to a comment from the responsible Federal Authority, the BMF (July 2025), the FKS, is currently assessing the productive use of the EESSI procedure. However, according to the BMF it is questionable whether dialogue and mediation procedures can be carried out using EESSI in the future, as no corresponding business use case is provided for in the procedure.

<sup>54</sup> Gesetz zur Verbesserung des Vollzugs im Arbeitsschutz (Arbeitsschutzkontrollgesetz). Vom 22. Dezember 2020, Bundesgesetzblatt Jahrgang 2020 Teil I Nr. 67, ausgegeben zu Bonn am 30. Dezember 2020, [https://www.bgbl.de/xaver/bgbl/start.xav#\\_bgbl\\_%2F%2F%5B%40attr\\_id%3D%27bgbl120s3334.pdf%27%5D\\_1733125979511](https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl120s3334.pdf%27%5D_1733125979511)

<sup>55</sup> [https://www.gesetze-im-internet.de/englisch\\_aentg/englisch\\_aentg.pdf](https://www.gesetze-im-internet.de/englisch_aentg/englisch_aentg.pdf)

<sup>56</sup> The law applies not only to posted workers but also to those regularly employed in Germany, requiring compliance from all companies operating in the country. Consequently, data on infringements and sanctions does not necessarily cover only posted workers but also others regularly employed in Germany.

§23 (1): Whoever intentionally or negligently fails to guarantee working conditions or timely payments (1.), does not cooperate with an audit (2.), fails to transmit data correctly, fully, or on time (4.), does not submit or transmit notifications correctly, fully, or on time (5.), fails to report changes correctly, fully, or on time (6.), does not prepare, retain, or keep records for at least two years (7.), fails to keep required documents available correctly or in the prescribed manner (8.), does not ensure availability of required documents, commits a regulatory offense (9.) or

§23 (2): An entrepreneur who contracts another entrepreneur for work or services and knowingly or negligently fails to recognize violations of mandatory working conditions or payment obligations, either directly or through subcontractors, commits a regulatory offense.

Also, the sectors with the three most initiated offense proceeding for each category are included. No criminal investigation proceedings were reported in relation to the AEntG.

**Table 17. Number of initiated administrative offense proceedings regarding AEntG, 2019-2022**

	2019	2020	2021	2022
§ 23 (1) Nr. 1 <i>AEntG</i> : Minimum wage/working conditions <sup>57</sup>	1 855	1 530	1 351	1 388
Electrical trades	75	76	98	153
Facility cleaning services	368	260	191	260
Main or ancillary building industry	1160	982	777	716
§ 23 (1) Nr. 2 <i>AEntG</i> (Cooperation in inspection)	66	91	51	0
Main or ancillary building industry	57	77	29	0
Facility cleaning services	1	9	16	0
Forwarding, transportation and related logistics industry	4	1	4	0
§ 23 (1) Nr. 4 <i>AEntG</i> (Data transmission)	0	6	8	15
Main or ancillary building industry	0	6	6	10
Others	0	0	3	1
Painting and varnishing	0	0	2	4
§ 23 (1) Nr. 5, 6, 7 <i>AEntG</i> : Registration/change notification/insurance	256	213	243	348
Electrical trades	11	8	30	42
Main or ancillary building industry	238	193	201	290
Painting and varnishing	2	1	3	2
§ 23 (1) Nr. 8,9 <i>AEntG</i> : obligation to keep records, readiness of documents	1 013	1 001	1 113	1 197
Facility cleaning services	147	138	205	179
Main or ancillary building industry	730	694	602	622
Painting and varnishing	21	47	82	132
§ 23 (2) <i>AEntG</i> : Indirect infringement	5	16	10	13
Care sector	0	1	0	2
Facility cleaning services	0	1	0	1
Main or ancillary building industry	5	12	10	8

Source: (Deutscher Bundestag, 2023b)

Regarding PDs A1 issued in 2022, Germany, as a sending Member State, identified 1,454 cases of fraud or error related to inappropriate use (De Wispelaere, De Smedt, & Pacolet, 2023b). In contrast, no such cases were reported in 2021. However, as a receiving Member State that year, Germany initiated 21 dialogue and conciliation procedures, contesting at least 1 952 PDs A1 from 27 companies, though the exact number remains unclear due to multi-worker certificates (De Wispelaere, De Smedt, & Pacolet, 2022b). In 2020, Germany detected 1,472 cases of inappropriate PD A1 use, mainly due to non-temporary

<sup>57</sup> Including ULAK (Holiday and wage equalisation fund for the construction industry).

assignments and posting companies lacking substantial business activity in the host country (De Wispelaere, De Smedt, & Pacolet, 2021b).

### 3.5 Sanctions and recovery

Violations of the AEntG may result in fines in accordance with Section 23 AEntG (Bundesministerium der Finanzen, 2021) but can also result in a withdrawal of licences or imprisonment. The German parliamentary inquiry mentioned above also requested data on the settlement of administrative offense proceedings under the AEntG. It should be noted that there is not necessarily a causal relationship between the initiated and completed administrative offense proceedings in the respective year. This is due to the fact that the completion and the associated time spent on investigating the offense are not necessarily linked.

As shown in *Table 18*, the total number of settled administrative offense proceedings decreased between 2019 and 2022. Main sectors were the main and ancillary building industry, facility cleaning services and the electrical trade.

**Table 18. Settled administrative offense proceedings related to offenses to the AEntG, 2019-2022**

	2019	2020	2021	2022
TOTAL, of which:	2 866	2 934	2 671	2 311
Electrical trade	79	92	127	174
Facility cleaning services	435	368	442	304
Main or ancillary building industry	1 988	2 098	1 693	1 396

*Source: (Deutscher Bundestag, 2023b)*

The share of administrative offense proceeding settled with a fine notice decreased from 62% in 2019 to 54% in 2022, while the incidence of termination of the proceedings according to § 47 OWiG<sup>58</sup> increased from 11% to 18%. Warnings with a fine accounted for between 2 and 4%, while recovery orders were issued for around 1% (Deutscher Bundestag, 2023b). Also, (warning) fines, recovery and forfeiture amounts are recorded in the statistics. Major parts of the amounts were assigned to the main or ancillary building industry (*Table 19*).

**Table 19. (Warning) fines, recovery and forfeiture amounts, related to AEntG 2019-2022, in Euro**

	2019	2020	2021	2022
§ 23 (1) Nr. 1 AEntG: Minimum wage for temporary workers	276 780	4 239 282	70 295	276 337
§ 23 (1) Nr. 1 AEntG: Minimum wage /(other) working conditions	16 445 988	9 986 908	9 170 628	5 575 811
§ 23 (1) Nr. 1 AEntG: ULAK (Holiday and wage equalisation fund for the construction industry)	239 180	4 500	109 115	201 039
§ 23 (1) Nr. 2 AEntG: Cooperation in inspection	78 250	96 000	80 193	5 500
§ 23 (1) Nr. 4 AEntG: Data transmission	0	19 250	2 200	3 500
§ 23 (1) Nr. 5, 6, 7 AEntG: Registration/change notification/insurance	202 704	126 120	138 935	133 313
§ 23 (1) Nr. 8 AEntG: obligation to keep records	0	32 654	131 220	428 696
§ 23 (1) Nr. 9 AEntG: readiness of documents	2 050	1 000	25 300	8 775

58 (1) The prosecution of regulatory offenses is at the discretion of the enforcement authority, which may discontinue proceedings as long as they are pending before it. (2) If the case is before a court and the court deems punishment unnecessary, it may discontinue the proceedings at any stage with the prosecution's consent. Consent is not required if the fine imposed is up to 100 euros and the prosecution has declared non-participation in the main hearing. The decision is final and cannot be appealed. (3) The discontinuation of proceedings must not be linked to or made dependent on a payment to a charitable organization or any other entity.

§ 23 (1) Nr. 8,9 AEntG: obligation to keep records, readiness of documents	712 149	742 564	416 403	51 545
§ 23 (2) AEntG: Indirect infringement	246 011	69 680	0	3 755

Source: (Deutscher Bundestag, 2023b)

For fines enforced and recovered, data are not recorded in the FKS statistics. It also needs to be stressed here that recovery in a sense of redress of – for example – unpaid wage claims or other financial claims of workers must be sued for payment by individual employees. In practice, this is quite challenging. To date, there is no collective right for legal action, e.g., initiated by trade unions. Here, an answer of the German government to a parliamentary inquiry of a MP is quite telling:

*“Employees who have been suffered from unlawful practice, are not informed by the Financial Investigation Office about violations of the statutory minimum wage, sector minimum wages under the Posted Workers Act (AEntG) and wage floors under the Temporary Employment Act (AÜG) in their company. The enforcement of claims under individual labour law are of a civil law nature and may have to be enforced as civil law disputes in the labour courts.”* (own translation) (Deutscher Bundestag, 2023b).

Finally, withdrawing a PD A1 may also be seen as a sanction. A total of 655 PDs A1 were requested to be withdrawn in 2023 by Germany as a receiving Member State, covering 651 employees from three countries (PL, HU, BG) and four self-employed persons from two countries (PL, SK).

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