

25th April 2023

Revision of Social Security Coordination

Paritarian institutions in the Building Sector oppose against exemptions to prior notification for the construction industry

The European Association of Paritarian Institutions ([AEIP](#)) welcomes the Swedish Presidency's commitment in moving forward with the revision of the social security coordination rules (Regulation No 883/2004 and Regulation No 987/2009) and recognises the urgency to maintain and further develop competitiveness in the European Union.

However, European paritarian institutions, as providers of social protection schemes based on collective bargaining, are particularly concerned by the inclusion of the exemption to prior notification for short posting periods and business trips for the construction sector.

The construction sector is particularly vulnerable to social dumping and labour exploitation due to the high level of mobility, the specific and complex production process, the numerous workplaces, and subcontracting. In this context, we believe that the removal of the reference to the building sector from the Swedish Presidency's document can be extremely harmful for the sector and we urge that all posting assignments in the construction sector must be subject to the prior notification obligation, regardless of their duration.

Furthermore, beside favouring social dumping and social fraud in the sector, the notification of A1 certificates to competent institutions within 3 days after the start of the activity might create also confusion and a legislative grey zone in relation to declarations of posting (Directive 2014/67/EU). Indeed, as showed by the European Commission's study "**Posting of workers, collection of data from the prior notification tools - Reference year 2019**"¹ (Paragraph 3.8), the comparison of data between A1 certificates and declarations of posting shows inconsistencies, suggesting risk of widespread noncompliance.

Even if the two sources are comparable only to a limited extent, it would be reasonable to expect a higher number of declarations of posting than of A1 forms, as the latter may be used in more than one occasion during its validity period.

Instead, when comparing the number of persons registered in the national declaration tools with the number of A1 forms received according to Article 12 of Regulation (EC) No 883/2004 for 2019, this holds

¹ European Commission, Posting of workers, collection of data from the prior notification tools - Reference year 2019 – for further information see [here](#).

true only for Belgium (254759 VS 218233) and Austria (398301 VS 320481). Remarkably, other 13 EU countries do not provide sufficient data, whereas the remaining 12 perform gaps largely different in size. For instance, the gap reaches +777% when comparing received A1 forms and declarations for Bulgaria (13840 VS 1578), +460% for Italy (173727 VS 31023), +106% for Sweden (85450 VS 41504), +82% for Denmark (46282 VS 25441), and +70% for France (264294 VS 450221).

At the same time, evidence on A1 forms and feedback by national authorities suggest the actual number of A1 forms may be influenced by introduction of sanctions for failure to show it at national level, as done in Austria, on the number of inspections, or on the overall level of awareness by companies, confirming that in some cases, a posting may take place without the institutions being informed of it.²

For the aforementioned reasons, paritarian institutions in the building sector urge the Swedish Presidency of the Council of the European Union to exclude the construction sector from the exemption for short posting periods and business trips and to foster better cooperation between Member States to prevent social dumping and impact the lives of millions of citizens. In this respect, we recall also the specificity of the construction sector has been already recognised in the Directive 96/71/EC³, article 3(2), whereby the exemption envisaged for installation or first installation of goods in case of postings lasting less than 8 days is ruled out for building works, as defined in the Annex of the Directive itself.

Instead, we call Member States to join the momentum of digitalisation to make administrative obligations easier and more accessible and to facilitate the work of labour inspectors in fighting undeclared work, social dumping and guarantee to all workers access to social protection as well as fair and safe working conditions. Indeed, digitalisation of A1 forms should aim to improve reliability of the certificates while reducing administrative burden on companies. As public administration services become available 24h on 24h and remotely, delaying declarations shall no longer be perceived as a strategy to alleviate the administrative burden. Instead, improving data matching, for instance between preliminary declarations of posting and requests of A1 forms, and simplifying data input by companies shall better serve this purpose. An interesting example is represented by the introduction by the Polish Social Insurance Institution (ZUS) of an application creator simplifying the online request of the A1 form for companies.⁴

AEIP remains available to provide and further clarification to the any of the points above.

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² For further information see the Report on A1 Portable Documents issued in 2020, [here](#), and the Report on Fraud and error in the field of EU social security coordination, [here](#).

³ For further information see [here](#)

⁴ Information Sharing Agreements (ISA) Project, Country in Focus Report – Poland. For further information see [here](#)