



Access to information on the posting of workers: Are we blinded by the importance given by EU legislation to the single official national website?*

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Introduction

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The aim of this policy brief is to show, based on empirical evidence collected in the frame of the [INFO-POW project](#) in Austria, Belgium, Italy, Slovakia and Slovenia, that posting companies, posted workers, and receiving companies, when looking for information about the posting rules, do not consult only the so-called *single official national website* of the host Member State but also frequently use other information channels. This while the Enforcement Directive concerning the posting of workers ([Directive 2014/67/EU](#)), in terms of access to information, almost exclusively pays attention to the development of a single official national website in the host Member State.

Keywords:
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single official national
website

In the provision of information regarding the posting of workers, there are several public and private information providers involved (e.g., public authorities, labour inspectorates, employers' organisations, trade unions, NGOs, consultants, business partners, etc.) who communicate with posting companies, posted workers and receiving companies (i.e., clients) through various online and offline information channels (e.g., website, event, training, manual, guidelines, video, contact person, local office, etc.). The frequent use of information channels other than the single official national website raises several (policy) questions. First, should this reality be considered and addressed in the provisions defined in EU legislation related to access to information on the posting of workers? In particular, the question can be raised whether the strong, almost exclusive, focus on the single official national website as main information channel is still justifiable. Second, should more effort be put into the accessibility, accuracy, completeness, and user-friendliness of the single official national websites to avoid a further proliferation of other information channels? After all, the single official national websites may offer the

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best guarantee that the information provided, e.g., regarding the remuneration to be paid to posted workers, is correct. For most of the other information channels, this cannot be guaranteed, which increases the likelihood of (unintentional) non-compliance with the applicable terms and conditions of employment. In this policy brief, we address these questions, and provide a few recommendations.

The single official national website: the golden bullet of the EU legislation

Difficulties in accessing information on terms and conditions of employment are very often the reason why existing rules are not applied by service providers

Recital 18 of the Enforcement Directive rightly states that “*Difficulties in accessing information on terms and conditions of employment are very often the reason why existing rules are not applied by service providers.*”¹ To address this reality, different potential information providers such as public authorities, labour inspectorates, social partners, NGOs, consultants, and business partners can be involved in both the sending and receiving Member State, as well as different information channels. In the Enforcement Directive, the information channel considered most appropriate in providing access to information is narrowed down to a large extent to the single official national website that should be developed by the receiving Member State. This narrow approach seems to be repeated in other relevant EU legislation (e.g., in [Directive \(EU\) 2018/957/EU](#), [Directive \(EU\) 2019/1152](#), [Regulation \(EU\) 2019/1149](#)).

In the Enforcement Directive, the information channel considered most appropriate in providing access to information is narrowed down to the single official national website that should be developed by the host Member State

As defined in the Enforcement Directive (Directive 2014/67/EU)

Article 5(2) of the Enforcement Directive states that Member States have the obligation to create a single official national website containing the information on the terms and conditions of employment applicable to workers posted to their territory. This information must be made generally available free of charge, in a clear, transparent, comprehensive, and easily accessible way. The website should include, where possible, links to existing websites and other contact points, in particular of the relevant social partners. Moreover, Member States should ensure that the information provided on the single official national website is accurate and updated on a regular basis.

The role and accountability regarding access to information of other information providers is barely mentioned in the Enforcement Directive or only described in very generic terms (e.g., the involvement of the social partners or the liaison office). This is also the case in the 2019 report from the European Commission (EC) on the application and implementation of Directive 2014/67/EU (EC, 2019), that primarily paid attention to the development of the single official national websites when assessing the implementation of the rules on access to information.

¹ However, the lack of knowledge about the fact that other terms and conditions of employment should be respected when sending workers to another Member State is a prior reason for non-compliance. After all, if one is not aware of this, a service provider will not look for information about it either.

As defined in the Directive amending the Posting of Workers Directive (Directive (EU) 2018/957/EU)

Directive (EU) 2018/957/EU stipulates (see Recital 21 and Article 1(2)) that when the information on the single official national website does not indicate which terms and conditions of employment are to be applied, this should be taken into account in determining penalties in the event of infringements of the national provisions adopted pursuant to the Directive. Therefore, the accountability regarding a possible lack of access to information when infringements to the terms and conditions of employment occur is put entirely on the receiving Member State. The question arises whether other actors do not also have a responsibility here (e.g., the receiving company or the sending Member State). Only in case of temporary agency posting and of 'chain posting', there is an information duty of the receiving company defined in Directive (EU) 2018/957/EU.

As defined in the Directive on transparent and predictable working conditions (Directive (EU) 2019/1152)

Furthermore, reference can be made to Directive (EU) 2019/1152 on transparent and predictable working conditions, when it comes to providing information to posted workers about the remuneration and additional allowances they are entitled to. Article 7.2 of this Directive stipulates that

"Member States shall ensure that a posted worker covered by Directive 96/71/EC shall in addition be notified of: (a) the remuneration to which the worker is entitled in accordance with the applicable law of the host Member State; (b) where applicable, any allowances specific to posting and any arrangements for reimbursing expenditure on travel, board and lodging; (c) the link to the single official national website developed by the host Member State pursuant to Article 5(2) of Directive 2014/67/EU of the European Parliament and of the Council."

Again, this Directive refers exclusively to the single official national website as the source of information on the posting of workers, not only for posting companies but also for posted workers. A positive element about the Directive on transparent and predictable working conditions is that regarding access to information for posted workers, a responsibility is put on the posting company. However, it remains to be seen how the provision is (not) applied in practice.

As defined in Regulation (EU) 2019/1149 of 20 June 2019 establishing a European Labour Authority

At the European level, both the EC and the European Labour Authority (ELA) can play an important role in providing (access to) information on posting. However, their role seems to be limited to referring to the single official national websites (see, for instance, Article 5(c) of Regulation (EU) 2019/1149). A review of the single official national websites did take place by the [EC](#) and the [ELA](#). Furthermore, [a template](#) has been developed by the ELA Working Group on Information for the presentation of information stemming from universally applicable collective

agreements. Nevertheless, it is not the case that the EC or the ELA analyse the information published on the single national websites, and are developing, for example, a kind of ‘wage calculator’.

Seeking information on the posting of workers in practice: a diversity of information providers and information channels

The mapping exercise shows a strong fragmentation across different public and private information providers, operating at national and European level, mainly providing online information

Despite the regulatory requirements, in practice companies find information through diverse channels and actors. Based on evidence collected within the frame of the INFO-POW research project from 1) the mapping exercise on available information providers and information channels, from 2) the online questionnaire to posting companies and receiving companies, and finally from 3) expert interviews, it appears that there is a diversity of information providers as well as a diversity of online and offline information channels used by these information providers.

A total of 182 information channels, distributed across the five Member States involved were identified in the mapping exercise (Danaj et al., 2023).² The mapping exercise shows a strong fragmentation across different public and private information providers, operating at national and European level, mainly providing online information. It shows, moreover, that many information channels other than the single official national websites are available.

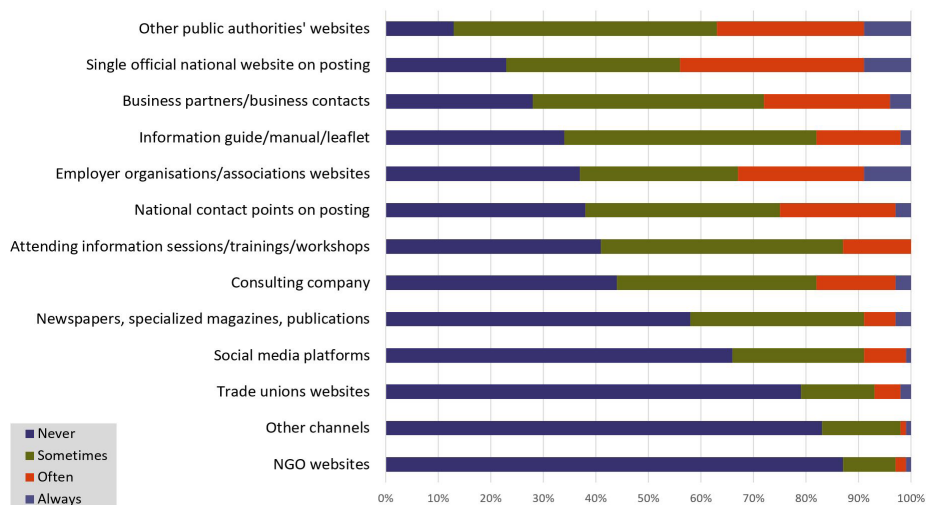
44% of the posting companies that completed the survey were unaware of the single official national website

The survey results confirm that posting companies active in the construction sector consult a multitude of information channels. The single official national website is – together with other public authorities’ websites, information from business partners, and employer organisations’ websites – one of the main information channels (*Figure 1*). However, 44% of the posting companies that completed the survey were unaware of the single official national website (*Figure 2*). This percentage is even higher among small posting companies (less than 50 employees) at 49%. While the survey covered a wide array of questions on access to information (for more information see De Smedt et al., 2023 forthcoming), certain other findings are worth mentioning in regard to this policy brief. For instance, 43% of the posting companies that completed the survey appear to have difficulties finding information on posting. Furthermore, about seven out of ten posting companies that completed the survey would prefer to be informed via an institutional website at the national level (e.g., via the single official national website) or at the European level, i.e., a pan-European single official website. Information provided through an institutional website is the highest preferred information channel by the respondents, followed by information provided by employers’ organisation websites and information provided in person.

² Keeping in mind that this mapping exercise cannot be considered an exhaustive overview of all the information channels available.

Figure 1: Frequency of the use of information channels on posting of workers

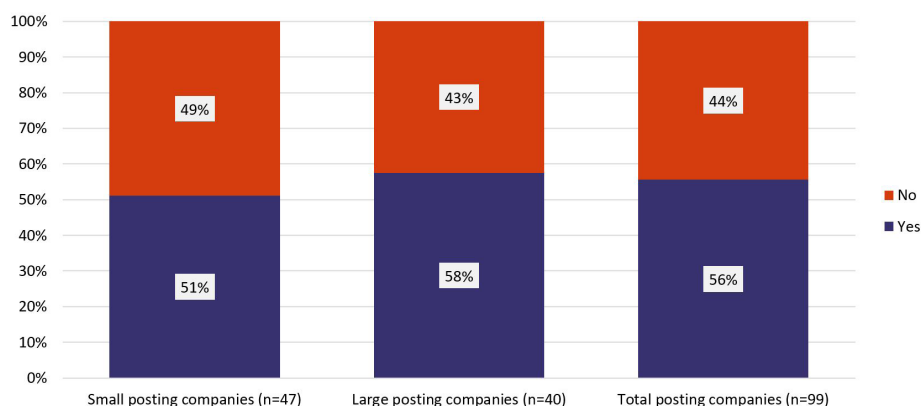
How often did you use the following channels for information on posting?



Source: data from the survey on posting and receiving companies in the construction sector (n: 100 posting companies)

Figure 2: Knowledge about the existence of the single official national website

Before answering this survey, were you aware of the single national websites on posting of the countries the company posted workers to?



Source: data from the survey on posting and receiving companies in the construction sector (n: 99 posting companies). The sum of small (n: 47) and large (n: 40) posting companies does not equal the total number of posting companies (n=99) as not all who answered the question about the single official national website filled out the question about the size of the company.

Finally, reference can be made to the results of the expert interviews organised in Austria, Belgium, Italy, Slovakia and Slovenia. One of the main challenges identified in all five Member States are language barriers. This is especially the case for smaller companies.³ As was mentioned by one of the interviewees: *“Most of the foreign service providers don’t speak a foreign language, so even if the single official national website is available in English, it’s still a barrier for them”* (De Smedt & De Wispelaere, 2023 forthcoming). This language barrier also affects the information companies will look up. After all, *“first of all, people will enter a*

³ See, for instance, the Austrian case study (Danaj, Kayran, Zólyomi, Prinz & Geyer, 2023 forthcoming): *“While the bigger ones would have personnel or consultants that speak German and/or English, it is a bit more difficult for smaller companies to access the relevant information when making direct inquiries with the public authorities.”*

search term in their own language. And perhaps secondarily in English if insufficient information is available” (De Smedt & De Wispelaere, 2023 forthcoming). Moreover, it is highly doubtful that posted workers themselves go look for information on the single official national website. In that respect, it was mentioned in the expert interviews that both posting companies and posted workers seem to make use of ‘informal contacts’ to find out about the applicable terms and conditions of employment. However, the information received risks being incomplete, incorrect, or outdated.

Take-away messages and policy recommendations

The frequent use of information channels other than the single official national website raises several (policy) questions. First, should this reality be considered and addressed in the provisions defined in EU legislation related to access to information on the posting of workers? In particular, the question can be raised whether the strong, almost exclusive, focus on the single official national website as main information channel is still defensible.

The accountability of informing posting companies is largely put on the receiving Member State, while in practice the sending Member State could also play an active role

To reduce the likelihood that existing rules on posting are not applied by service providers because of difficulties in accessing information but also of a lack of awareness of the applicable rules, other information providers such as the sending Member State and the receiving company could be more involved in providing information. Indeed, because of the strong focus on the single official national website, the accountability regarding informing posting companies about the applicable terms and conditions of employment is largely put on the receiving Member State, while in practice, the sending Member State and its competent administrations could also play an active role here. Not least because information will mostly be looked up in the mother tongue, and not in English, let alone in the language of the place where the services are provided. For instance, the following suggestion was made during one of the Belgian expert interviews: *“When applying for a Portable Document A1, one should receive the message: ‘You have applied for a PD A1 to work in another Member State. Please be aware that different wage and working conditions apply in this Member State, so please inform yourself about this.’”* This message could then refer to the [EC webpage](#) that provides an overview of all single official national websites. Furthermore, more responsibility could be given to receiving companies (also from the angle of ‘self-regulation’ and ‘due diligence’), for example by making it compulsory to include a link to the single official national website in the contract when signing an agreement with a foreign service provider.

Second, the question can be raised whether more efforts should be put into the accessibility, accuracy, completeness, and user-friendliness of the single official

It can be argued that the degree of accessibility, accuracy, completeness, and user-friendliness of the single official national websites may play an important role to what extent other information channels are consulted

national websites to avoid a proliferation of other information channels. The evaluation of the single official national websites is beyond the scope of this policy brief. However, it can be argued that the degree of accessibility, accuracy, completeness (covering labour law, social security law, tax law, migration law, specific sectoral obligations, etc.) and user-friendliness of these websites may not only play an important role to what extent they are consulted but also to what extent other information channels are consulted. Considering the importance given in the Enforcement Directive to providing information via the single official national website, continuous monitoring by the EC regarding the transposition and application of Article 5(2) is, therefore, of great importance. Moreover, these websites offer the best guarantee that the information provided, e.g., regarding the remuneration to be paid to posted workers, is correct. For most of the other information channels, this cannot be guaranteed, which increases the likelihood of (unintentional) non-compliance with the applicable terms and conditions of employment (e.g., applying outdated wage levels). Finally, easily accessible, clear and comprehensive information provided through these single official national websites should also ensure that posting companies do not necessarily have to rely on consulting firms when providing services abroad. After all, Article 5(1) of the Enforcement Directive clearly stipulates that

“Member States shall take the appropriate measures to ensure that the information on the terms and conditions of employment which are to be applied and complied with by service providers is made generally available free of charge in a clear, transparent, comprehensive and easily accessible way at a distance and by electronic means.”

In that respect, it would be useful if the information reported by the single official national websites is processed, e.g. in some kind of a ‘wage calculator’ (examples exist in [Austria](#) and [Switzerland](#)). Such initiative could be initiated by the social partners, the ELA or the EC.

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