

Project:	STEP UP Protection: Stepping up the European cooperation and communication among Public & Private organizations for the PROTECTION of posted workers’ rights
Ref. no.	VS/2019/0383
WP: 4	A.4.1. Research about the level of diffusion of information on rights and obligations in situations of cross-border posting among companies and workers in the mechanical industry

National report on the level of diffusion, among companies and workers in the mechanical industry, of the information on rights and obligations in situations of cross-border posting

ROMANIA

1. Description of methodology

Please transfer already prepared information by each country concerning description of methodology (stage 1. Description of methodology). No additional information required.

1. The 3 questionnaires (addressed to employers, trade unions and employees) were submitted in on-line version, using Google Forms and sent via e-mails containing interactive link to respective Google Forms.

For employers, we have tackled only those companies active in mechanical industry branches. Contacts (emails) have been acquired through public paid data base available online. Aprox. 20 sets of emails, addressed to several companies, were sent in order to fill in the questionnaire. Many e-mail contacts were out of date, thus the percentage of emails returning to sender is quite high. For this reason, it is very difficult to calculate the precise number of delivered questionnaires.

For trade unions, specific emails were sent to 10 national/regional trade unions and 7 company trade unions from the mechanical industry branches, whose contact details were public. Some of these contacts were out of date, especially those from company trade unions, as many emails have returned to sender. Personal contacts were used as well in order to further disseminate the information and reaching trade unions representatives.

Concerning the employees (posted workers), is it almost impossible to reach them directly or the get their contacts from employers from their employers (due to data protection regulations). Thus, we have contacted several companies, in order for them to disseminate the information among employees or to facilitate a direct communication with the posted workers. In this respect, no company gave us a positive answer.

The deadline for filling in the questionnaires was been postponed several times, due to a low number of collected answers. Filling in the three questionnaires is still available, if any employer/ trade union/ employee is eager to.

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2. By October 31th, 2021, the following number of questionnaires for each category was received:

- 23 from employers (from mechanical industry branches);
- 12 from trade unions;
- 0 from employees.

3. The current situation in Romania, caused by COVID-19 pandemic, may be one of the most important factors which impedes the conduct of this research; the employers are more focused on their regular activity, to ensure a profit for their companies and that they will withstand the market, rather than getting involved in research projects. The trade unions are very concerned about the increasing rates of technical unemployment, dismissals, the critical situation of small sized companies (but not only), strikes, etc. Some major trade unions initiated national street protests in early January 2021, and some of these movements are still on course.

Also, due to COVID-19 restrictions at national level, affecting both the activity of the employers, as well as the one of the employees, the only method of distributing the questionnaires was using Google forms, via online channels. With no direct, live interactions between the project’s team and the potential respondents, it was quite difficult in getting the targeted number of filled in questionnaires for each category of respondents.

2. Description of the results

Please fill the table indicating the information from each question. Information needed – number of answers and its expression in percent. When indicating percent (%), please calculate it as percentage from all received questionnaires, unless it is specified differently for specific questions, where no percentage is needed in the table (still you are free to use certain calculation of percentage when providing analysis of findings (in part 3).

Additionally, you can use diagrams (different types of graphic depiction). If needed, additional comments can be entered at the end of the table.

In case no answers are received to specific questionnaire, corresponding part (2.1., 2.2. or 2.3.) is skipped (deleted from the template without changing the numeration of remaining parts).

2.1. Questionnaire for employers

No of Q.	Question	Number of answers	%
1	Area or nature of activity of your company: Mechanical industry + related branches <ul style="list-style-type: none"> ■ Machinery/ parts manufacturer ■ Car/ parts manufacturer / service provider ■ IT/ electronic parts manufacturer ■ Weapon manufacturer ■ Automotive dealer 	23 13 6 2 1 1	No % is needed

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2	The home state of your business: Romania	23	100%
3	Average number of employees in your company: <ul style="list-style-type: none"> ■ 1-9 ■ 10-49 ■ 50-99 ■ 100-249 ■ 250 and more 	1 3 11 3 4	4,35% 13,04% 47,83% 13,04% 17,39%
4	Do you post your staff to other EU Member States? <ul style="list-style-type: none"> ■ Yes ■ No 	9 14	39,13% 60,87%
5	If the answer was yes, please indicate the most usual EU countries of posting: <ul style="list-style-type: none"> ■ Germany ■ Austria ■ France ■ Italy ■ Poland ■ Slovakia ■ Czech Republic ■ Hungary ■ Greece ■ Serbia 	7 2 3 1 2 1 1 1 1 1	No % is needed
6	Do you post your staff to non-EU countries? <ul style="list-style-type: none"> ■ Yes ■ No 	5 18	21,74% 78,26%
7	If the answer was yes, please indicate the most usual non-EU countries of posting: <ul style="list-style-type: none"> ■ Japan ■ Switzerland ■ Ukraine ■ Moldova 	2 1 1 1	No % is needed
8	You are posting your staff to another country because: <ul style="list-style-type: none"> ■ You have (had) a contract of services with foreign enterprise ■ Employees are sent to another company of our group ■ We are a temporary employment company (agency) ■ Other: 	5 4 0	55,56% 44,44%
9	On average, you post an employee abroad: <ul style="list-style-type: none"> ■ Up to 1 week ■ From 1 week to 1 month ■ From 1 month to 3 months ■ From 3 months to 6 months 	0 0 3 3	33,33% 33,33%

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	<ul style="list-style-type: none"> ■ From 6 months to 12 months ■ More than 12 months ■ Other: 	2 1 0	22,22% 11,11%
10	Are you an employer to which workers from other countries are posted? <ul style="list-style-type: none"> ■ Yes ■ No 	11 12	47,83% 52,17%
11	If answer is yes, from which foreign countries (EU Member States and third countries) are workers sent to you: <ul style="list-style-type: none"> ■ France ■ Sweden ■ Great Britain (UK) ■ Japan ■ Germany ■ Poland ■ Czech Republic ■ Austria ■ Switzerland ■ Slovakia 	4 1 1 1 3 3 2 3 1 1	No % is needed
12	Why do you need to accept posted workers from other countries? Please specify <ul style="list-style-type: none"> ■ Lack of specialized work force ■ Specialized training for own employees ■ Improvement of technical skills for students/ young people ■ Exchange of expertise ■ Implementation of new projects (equipment, products, etc.) ■ New management 	1 3 1 7 3 1	No % is needed
13	Do you know that there are special EU directives governing the posting of workers? <ul style="list-style-type: none"> ■ Yes ■ No 	21 2	90,30% 8,70%
14	Do you know that these special EU directives governing the posted workers have to be transferred to national legislation? <ul style="list-style-type: none"> ■ Yes ■ No 	20 3	86,96% 13,04%
15	If answer to previous question is yes, can you name the national legal act (acts) which transfer special EU directives governing posted workers: Labour Code Law 16/2017 Law 172/2020	2 10 8	10,00% 50,00% 40,00%
16	Did you know that workers posted to another EU country must be subject to the same working conditions and guarantees as workers from that country? <ul style="list-style-type: none"> ■ Yes ■ No 	19 4	82,61% 17,39%

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17	<p>Which of these working conditions during posting period must be applied to posted workers (several answers can be selected):</p> <ul style="list-style-type: none"> ■ Maximum work periods and minimum rest periods ■ Minimum paid annual holidays ■ Rates of pay, including overtime rates ■ Conditions of workers by temporary employment ■ Health, safety and hygiene at work ■ Protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people ■ Equality of treatment between men and women ■ Non-discrimination rules ■ Conditions of employees' accommodation ■ Reimbursement of additional expenses (e.g. travel, accommodation) ■ All above mentioned conditions ■ Only these conditions that are agreed by employee and employer ■ Other: 	<p>18</p> <p>18</p> <p>13</p> <p>10</p> <p>15</p> <p>14</p> <p>15</p> <p>11</p> <p>7</p> <p>2</p> <p>5</p> <p>2</p> <p>0</p>	<p>No % is needed</p>
18	<p>Did you know that you can only post employees employed by your company?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>19</p> <p>4</p>	<p>82,61%</p> <p>17,39%</p>
19	<p>Did you know that you must obtain an A1 form from your national competent authority before posting a worker?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>18</p> <p>5</p>	<p>78,26%</p> <p>21,74%</p>
20	<p>Which competent authority in your country issues an A1 form? Please specify:</p> <ul style="list-style-type: none"> ■ National House of Public Pensions ■ The Romanian Labour Inspectorate ■ I do not know 	<p>18</p> <p>4</p> <p>1</p>	<p>78,26%</p> <p>17,39%</p> <p>4,35%</p>
21	<p>Are you aware of the electronic pre-declaration systems put in place by EU Member States?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>1</p> <p>22</p>	<p>24,35%</p> <p>95,65%</p>
22	<p>Who has to fill in the pre-declaration forms?</p> <ul style="list-style-type: none"> ■ Sending employer ■ Host company ■ Employee ■ Cannot answer 	<p>20</p> <p>1</p> <p>1</p> <p>1</p>	<p>86,96%</p> <p>4,35%</p> <p>4,35%</p> <p>4,35%</p>
23	<p>Do you know where to find and fill out pre-declaration forms?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>19</p> <p>4</p>	<p>82,61%</p> <p>17,39%</p>
24	<p>Can you post third-country nationals to another EU Member States:</p>		

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	<ul style="list-style-type: none"> ■ Yes, in all cases ■ Yes, if worker is legally residing and working in sending country ■ No ■ Cannot answer ■ Other: 	<p>5</p> <p>2</p> <p>6</p> <p>10</p> <p>0</p>	<p>22,73%</p> <p>9,09%</p> <p>27,27%</p> <p>45,45%</p> <p></p>
25	<p>Which remuneration has to be guaranteed for posted worker?</p> <ul style="list-style-type: none"> ■ At least minimum salary applicable in country where the work is carried out ■ The same level of salary that is typical for native employees performing the same job in country where the work is carried out ■ At least minimum salary applicable in sending country ■ Other ■ Cannot answer 	<p>3</p> <p>16</p> <p>2</p> <p>2</p> <p>0</p>	<p>13,04%</p> <p>69,57%</p> <p>8,70%</p> <p>8,70%</p> <p></p>
26	<p>Amounts covering additional expenses (transport, travel and other expenses) which are paid by employer:</p> <ul style="list-style-type: none"> ■ Are considered as part of agreed salary of employee ■ Are paid in addition to the agreed salary ■ Cannot answer ■ Never paid such amounts 	<p>0</p> <p>15</p> <p>6</p> <p>2</p>	<p></p> <p>65,22%</p> <p>26,09%</p> <p>8,70%</p>
27	<p>Do you know that in each EU country information on posting of workers is provided on internet sites?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>20</p> <p>3</p>	<p>86,96%</p> <p>13,04%</p>
28	<p>Have You ever used information on posting of workers provided on internet sites?</p> <ul style="list-style-type: none"> ■ Yes ■ No 	<p>14</p> <p>9</p>	<p>60,87%</p> <p>39,13%</p>
29	<p>If answer is yes, please indicate whether (several answers can be selected):</p> <ul style="list-style-type: none"> ■ Information was useful ■ Information was useful only in part ■ Information was not useful ■ Could not use the information because of foreign language ■ Other: 	<p>7</p> <p>6</p> <p>0</p> <p>0</p> <p>0</p>	<p>53,85%</p> <p>46,15%</p> <p></p> <p></p> <p></p>
30	<p>What information do you need to provide before posting a worker to another state (several answers can be selected)?</p> <ul style="list-style-type: none"> ■ Country of posting ■ Duration of work abroad (posting) ■ The salary that will be paid in the host state ■ The currency in which the salary will be paid ■ Other benefits (in kind or in money) for work performed abroad ■ Conditions of returning to country of origin (sending country) 	<p>23</p> <p>23</p> <p>23</p> <p>12</p> <p>23</p> <p>19</p> <p>21</p>	<p>No % is needed</p>

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	<ul style="list-style-type: none"> ■ Daily allowance and reimbursement of expenses (e.g. travel, accommodation) ■ A link to the official website of the host country where relevant information on the posting is published ■ Institution to which social security contributions are paid ■ Other: 	7 8 0	
31	Do you use the services of posted temporary workers? <ul style="list-style-type: none"> ■ Yes ■ No 	0 23	100%
32	Can different (worse) working conditions be imposed on posted temporary workers than on permanent workers? <ul style="list-style-type: none"> ■ Yes ■ No ■ Cannot answer 	0 17 6	73,91% 26,09%
33	If your company has a collective agreement (company level), do you have to apply it: <ul style="list-style-type: none"> ■ For all posted workers ■ Only for temporary posted workers ■ Not applicable to posted workers ■ Cannot answer 	3 0 1 19	13,04% 4,35% 82,61%
34	These collective agreements must be applied to posted workers: <ul style="list-style-type: none"> ■ Only those which are of general application under national law ■ Only those that would normally apply to similar companies in that territory, industry or professional field ■ Only those that are concluded by the social partners at national level and apply throughout the country ■ Not applicable at all ■ Cannot answer 	2 2 0 2 17	8,70% 8,70% 8,70% 73,91%
35	Did you know that the trade union of the host enterprise can contact the employer (sender) of the posted workers offering to participate in joint collective bargaining? <ul style="list-style-type: none"> ■ Yes ■ No 	10 13	43,48% 56,52%
36	Have you ever participated in such collective bargaining that address the issues of working conditions of posted workers? <ul style="list-style-type: none"> ■ Yes, as the host employer (enterprise) of the posted workers ■ Yes, as sending employer of the posted workers ■ No ■ Cannot answer 	0 0 22 1	95,65% 4,35%

Comments:

Q5. Although is not an EU member state, Serbia was also mentioned once by one of the respondents. This shows that the employer who gave this answer does not know which are actually the EU Member States.

2.3 Questionnaire for Trade Unions

No of Q	Question	Number of answers	%
1	Your trade union acts in: <ul style="list-style-type: none"> ■ Enterprise level ■ Branch or territorial level ■ National level ■ Other: 	8 2 2 0	66,67% 16,67% 16,67% 0%
2	Your country: Romania	12	100%
3	Whether you have encountered workers of another EU Member States posted to your state: <ul style="list-style-type: none"> ■ Yes ■ No 	6 6	50% 50%
4	If answer is yes, from which EU Member State (States): <ul style="list-style-type: none"> ■ France ■ Germany ■ Italy ■ Portugal ■ Spain ■ Greece ■ UK ■ The Netherlands 	4 3 1 1 1 1 1 1	No % is needed
5	Whether you have encountered workers of non-EU country posted to your state: <ul style="list-style-type: none"> ■ Yes ■ No 	7 5	58,33% 41,67%
6	If answer is yes, from which non-EU country (countries): <ul style="list-style-type: none"> ■ India ■ Pakistan ■ China ■ Afghanistan ■ Ukraine ■ Moldova ■ Turkey ■ Russia ■ Serbia ■ Tunisia ■ Arab countries 	5 2 2 1 1 1 1 1 1 1 1	No % is needed
7	Whether you have encountered workers posted to another EU Member States:		

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	<ul style="list-style-type: none"> ■ Yes ■ No 	5 7	41,67% 58,33%
8	<p>If answer is yes, to which country (countries):</p> <ul style="list-style-type: none"> ■ Almost from all EU countries ■ Italy ■ Germany ■ Spain ■ France ■ Greece ■ UK ■ The Netherlands 	1 3 2 2 2 1 1 1	No % is needed
9	<p>What is the way you are dealing with posted workers (several answers can be selected)?</p> <ul style="list-style-type: none"> ■ We constantly publish and provide general information about our trade union ■ We are contacting individual posted workers where it is possible ■ Posted workers are applying to us with different questions ■ We have close contact with employers hosting posted workers ■ Other: no contact with posted workers 	5 6 5 1 2	No % is needed
10	<p>If you publish and provide general information about your trade union, which methods do you use (several answers can be selected):</p> <ul style="list-style-type: none"> ■ General information about trade union on web site ■ General information about trade union in printed brochures or booklets ■ General information about posted workers’ rights on web site ■ General information about posted workers’ rights in printed brochures or booklets ■ Cannot answer ■ Other: orally do not have collaboration with posted workers 	7 5 4 6 0 1 1	No % is needed
11	<p>If you publish and provide general information about your trade union, which languages do you use:</p> <ul style="list-style-type: none"> ■ Romanian ■ English ■ Japanese 	8 7 1	No % is needed
12	<p>If posted workers are applying to you, do they apply:</p> <ul style="list-style-type: none"> ■ To receive general information about their rights ■ Are complaining about possible violation of their rights ■ Cannot answer ■ Other: no contacts with posted workers 	5 5 1 2	No % is needed

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13	<p>If posted workers are applying to you, what type of information they usually need (several answers can be selected)</p> <ul style="list-style-type: none"> ■ Working time/rest periods ■ Annual holidays ■ Minimum wage ■ Other payments for work ■ Conditions of workers by temporary employment ■ Health, safety and hygiene at work ■ Protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people ■ Equality of treatment between men and women and other non-discrimination rules ■ Conditions of employees' accommodation ■ Reimbursement of additional expenses (e.g. travel, accommodation) ■ Cannot answer ■ Other: do not interact with posted workers 	<p>5 4 4 7 3 4 2 3 4 7 1 2</p>	<p>No % is needed</p>
14	<p>What type of help (support) do you usually provide for posted workers (several answers can be selected):</p> <ul style="list-style-type: none"> ■ general information about national legal regulation ■ general information about EU legal regulation ■ specific individual legal evaluation of worker's rights ■ legal advice ■ representation of worker before state institutions or bodies dealing with pre-trial individual labour disputes ■ legal representation in courts ■ contacts of other persons/institutions which can provide legal aid ■ cannot answer ■ other: do not interact with posted workers 	<p>8 5 3 3 2 1 4 1 2</p>	<p>No % is needed</p>
15	<p>In case of cross-border situations of posted workers what type of communication do you usually use (several answers can be selected):</p> <ul style="list-style-type: none"> ■ Direct communication with sending employers ■ Direct communication with host enterprises ■ Communication with foreign national competent authorities (e.g. labour inspectorate) ■ Communication with trade unions of other countries ■ None ■ Cannot answer ■ Other: do not interact with posted workers 	<p>3 0 2 7 3 1 1</p>	<p>No % is needed</p>
16	<p>Please indicate other problems in the sphere of posting of workers you are familiar with:</p> <ul style="list-style-type: none"> ■ Payment of per diem 	<p>2</p>	<p>No % is needed</p>

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	<ul style="list-style-type: none"> ■ Access to medical services ■ Difference of salaries ■ Overtime working hours ■ Problems with accommodation/ housing ■ Access to education for their children ■ Family reunification ■ Do not know/ N/A 	<p>2</p> <p>1</p> <p>1</p> <p>2</p> <p>1</p> <p>2</p> <p>4</p>	
17	<p>Your position in trade union:</p> <ul style="list-style-type: none"> ■ The chairman ■ Member of trade union administrative body ■ Lawyer/legal expert ■ Other: member 	<p>7</p> <p>4</p> <p>0</p> <p>1</p>	

Comments:

Q4 and Q8. Although UK is not an EU member state anymore, the answer has been accounted for questions no. 4 and no.8, being provided by the trade unions responding to the questionnaire. This shows that the representatives of trade unions who either did not pay much attention to the question, or did not know/ forgot that UK left the European Union in 2020.

3. Analysis of findings

Using the results of questionnaires (and if needed specific forms) please describe briefly following aspects of the findings. In this part you are also free to present your personal opinion, interpretation and suggestions.

In case no answers are received to specific questionnaire, corresponding part (3.1., 3.2. or 3.3.) is skipped (deleted from the template without changing the numeration of remaining parts).

A1. Please describe the findings, which EU countries were indicated as destination for posting (questions No 4 and 5). Whether the results were expected from the national experience?

9 out of 23 employers (39,13%) indicated that they post their workers to other EU countries. 9 EU member states have been mentioned by the respondents. The most common destination state for posting in Germany (7 times), followed from great distance by France (3 times), Austria and Italy (2 times), then Austria, Poland, Slovakia, Czech Republic, Hungary and Greece (1 time each).

Although is not an EU member state, Serbia was also mentioned once by one of the respondents. This shows that the employer who gave this answer does not know which are actually the EU Member States.

These findings match with the statistical data provided by the European Parliament¹, where Germany, France and Italy are the most frequent EU states for posting of Romanian workers. Though Belgium is the second option for posting workers, according to the above-mentioned source, none of the respondents chose this EU member state as an answer.

There is no official national data covering national situation on posting, hence other sources had to be taken into consideration.

B1. Please describe the findings, which non-EU countries were indicated as destination for posting (questions No 6 and 7). Whether the results were expected from the national experience?

Only 5 out of 23 employers (21,74%) indicated that they use posting to non-EU countries. 4 non-EU countries were mentioned – Japan (2 times), Switzerland (1 time), Ukraine (1 time) and Moldova (1 time). Although responded affirmatively whether he is posting workers to non-EU countries, 1 respondent did not specify which are these exact countries.

Again, there is no official data regarding posting of Romanian workers to non-EU countries. We can rely on the answers given by the trade unions to their respective questionnaire, and the countries that have been mentioned in both questionnaires are: Japan, Ukraine and Moldova.

C1. Can it be noticed that employers who post their workers to EU countries, also actively use posting to non-EU countries (relation of Q no 4-7)?

After comparing the data from Q4-Q7, we can state that most of the employers that post workers in EU countries, do also post in non-Eu countries - 5 employers are active in posting to both EU and non-EU countries. 2 of the respondents post workers to Germany and France (EU) and then to Japan (non-EU). Another respondent who post workers to Germany, France and Austria (EU), indicated Switzerland as a non-EU country for posting. Other respondent who post workers in several EU countries (Poland, Czech Republic, Slovakia, Hungary, Greece), mentioned Ukraine and Moldova as non-EU countries of destination.

And 1 respondent who posts workers in France (EU), did not mention the non-EU countries for posting, although responded affirmatively to Q6.

D1. What are the most usual reasons for posting (Q no 8)?

Out of the 9 answers provided to Q8, 5 mentioned having a contract with a foreign enterprise and 4 mentioned sending workers to another company of the group. No other reason for posting has been specified. The distribution of answers between the two options is approx. 50% each.

E1. What are the most popular periods of posting (Q no 9)?

The findings after analysing the answers registered to Q9 show that is no period of posting has been mentioned more frequently than the others. 3 answers were given to 1 month to 3 months (33,33%), as well as to 3 months to 6 months (33,33%). The period of 6 months to 12 months was mentioned 2 times (22,22%), and the period of more that 12 months only 1 time (11,11%).

¹ https://www.europarl.europa.eu/infographic/posted-workers/index_en.html#overview.

No respondent indicated the terms of posting up to 1 week or 1 week to 1 month (the shortest periods), or indicated another period of posting, that was not covered by the options given in the questionnaire.

Thus, we might state that the respondents use short and mid-term periods of posting.

F1. Please describe the findings, from which EU and non-EU countries employers mostly receive posted workers (Q No 10 and 11). Whether the results were expected from the national experience?

11 out of 23 employers (47,83%) indicated that they accept posted workers from foreign countries. A total of 10 countries were mentioned. For EU, the most popular answers were France (4 times), Germany, Austria and Poland (3 times), Czech Republic (2 times), Sweden and Slovakia (1 time). According to the data provided by the European Parliament², all these EU member states are sending posted workers to Romania, therefore we can say for certain that there is a match between the findings from the answers given to Q10 and Q11 and the reality at national level.

As for non-EU countries, Japan, UK and Switzerland were mentioned, each only 1 time. Official data issued by the Romanian General Inspectorate for Immigration³ state that the most popular countries of origin for non-EU posted workers coming to Romania are, in this exact order, Vietnam, Nepal, India, Turkey, Moldova, Sri Lanka and China. None of these countries were mentioned by the employers responding to this questionnaire.

G1. Can it be noticed certain relations of sending and receiving countries (Q 5, 7 and 11)?

Regarding the EU countries, almost all of those mentioned in the answers given to Q5 can be found in Q11 (except from Sweden). The most popular answers are Germany and France. For non-EU countries, only Japan and Switzerland are mentioned in the answers given to Q7 and to Q11.

No particular relations could have been found between the answers given.

H1. What are the most usual reasons for receiving posted workers (Q 12)?

15 respondents filled in their answers to Q12, covering a wide range of reasons for receiving posted workers. The most frequent one is “exchange of technical expertise” (7 times), followed by “specialized training for own employees” and “implementation of new projects (e.g. equipment, products)” (both 3 times). The last set of reasons have been mentioned only once: “lack of specialized work force”, “improvement of technical skills for students/ young people” (internship), “new management”.

II. Please evaluate the results of general knowledge concerning EU regulation, its transposition and national legislation (relation of Q 13, 14 and 15).

² https://www.europarl.europa.eu/infographic/posted-workers/index_en.html?country=ro#receivedworkers

³ http://igi.mai.gov.ro/sites/default/files/evaluarea_activitatii_in_anul_2020_final_3.pdf

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The majority of respondents – 21 out of 23 (91,30%) answered affirmatively to Q13, they do know that there are special EU directives regulating posting of workers. For the next question – Q14, whether they do know that these special EU rules have to be transferred to national legislation, 20 respondents (86,96%) gave an affirmative answer, one less than the previous question.

From 20 respondents who indicated national legal acts for Q15, all answers were exact, though they were different: “Labour Code” (2 times) – the general legal act, “Law 16/ 2017” (10 times) – transposition of Directive 96/71/CE, and “Law 172/ 2020” (8 times) – transposition of Directive 2018/957/UE.

The findings show that almost more than 50% of the respondents, although they have some information regarding the national legal acts regulating the transnational posting of workers, did not know which is the specific and the latest legal act in this field - Law 172/ 2020. Hence, 2 of them indicated the general Labour Code, and 10 of them the Law 16/ 2017, which has been revised in August 2020.

J1. Please evaluate the results of general knowledge concerning guarantees for posted workers and specific conditions that must be applied (Q 16 and 17).

The majority of respondents (19 out of 23, 82,61%) answered affirmatively to Q16, they do know that workers posted to another EU country must be subject to the same working conditions and guarantees as workers from that country.

When analysing the data from Q17, findings states that only 5 respondents chose the answer “All above mentioned conditions must be applied”, indicating all the conditions that should legally applied to posted workers. Apart of this answer covering all the conditions established by law, a high rate of answers was given to: maximum working periods and minimum rest periods (18 times), minimum paid annual holidays (18 times), health, safety and hygiene at work (15 times), protective measures [...] (14 times), non-discrimination rules (11 times), equality of treatment between men and women (10 times), conditions of workers by temporary employment (10 times), conditions of employees’ accommodation (7 times) and reimbursement of additional expenses (5 times).

There were also 2 answers saying that only the conditions agreed by the employee and the employer should be applied to posted workers.

Analysing this data, it is quite clear that some of the conditions applying to posted workers are more obvious than others to the employers. It was also noted the need to repeatedly inform the employers over the conditions stipulated by law, that should be applied to posted workers.

K1. Please evaluate the results of general knowledge concerning A1 form (Q 19 and 20).

18 respondents (out of 23 – 78,26%) answered affirmatively to Q19, they do know that employer must obtain an A1 form from national competent authority.

Although the number of affirmative answers to the previous question, regarding the necessity of having an A1 form before posting, was lower, 22 respondents provided a specific answer to Q22. 18 of them indicated the National House of Public Pensions - the actual Romanian

national competent authority to issue an A1 form, and 4 if they indicated the Romanian Labour Inspection.

1 respondent answered he does not know.

It is obvious that the 18 respondents who answered affirmatively to Q19, provided the correct answer to Q20. The other 4 just probably mentioned the only institution they knew with competences in posting situations.

L1. Please evaluate the results of general knowledge concerning pre-declaration system (Q 21, 22, 23).

Only 1 out of 23 respondents (4,35%) answered affirmatively to Q21, they are aware of the electronic pre-declaration system in EU countries. There is the possibility that the actual meaning of this question, especially the syntagma “electronic pre-declaration *system*”, has been diverted through translation (from the original language in which the questionnaire has been drafted to the languages of the countries where the questionnaires were disseminated) and the respondents did not understand its actual meaning.

The answers provided by the respondents to Q22 sustain the above theory, as 20 respondents selected “sending employer” (86,96%) being the responsible entity for filing in the pre-declaration form, and only 2 respondents chose other options: “host company” (1 time) and “employee” (1 time). 1 respondent selected answer “cannot answer”.

On the same note, 19 respondents stated that they do know where to find and fill out the pre-declaration forms, and only 4 respondents answered that they do not know.

If we take into consideration only the answers provided to Q22 and Q23, employers' general knowledge related to the pre-declaration form seems quite high. But there is still the need to clear the ambiguities regarding the “electronic pre-declaration *system*”.

M1. Please evaluate the results of general knowledge concerning possibility to post third-country nationals to another EU member State (Q 24).

11 respondents provided the positive answer, 5 of them indicating that it is possible to post third-country nationals “in all cases”, the rest specified their positive answer indicating that it is possible only in case when worker is legally residing and working in the sending country. There were also 2 negative answers, and 10 respondents stated that “cannot answer”.

N1. Please evaluate the results of general knowledge concerning remuneration for posted workers (Q 25 and 26).

16 respondents (69,57%) indicated that the same level of salary that is typical for native employees performing the same job in country where the work is carried must be paid. 3 respondents indicated that at least minimum salary applicable in host country must be guaranteed, and 2 respondents indicated that minimum salary applicable in sending country must be guaranteed. 2 respondents stated that “cannot answer”.

The findings show that, at least in theory, most of the employers are aware of the regulations regarding the salaries applied to posted workers. This affirmation is partially confirmed by the

answers given to Q26 – covering additional expenses, where 15 respondents out of 23 (65,22%) replied that these expenses are paid in addition to the agreed salary. 2 of the respondents answered “never paid such amounts” and 6 respondents stated that “cannot answer”.

O1. Please describe the finding concerning knowledge and use of information (Q 27, 28, 29).

20 respondents (out of 23 - 86,96%) indicated that they are aware that in each country information on posting is provided on internet sites. But only 14 of 23 (60,87%) replied that they have been using such information. Accordingly, only 13 respondents provided answers to Q29, 53,85% stating that this information was useful (7 resp.) and 46,15% stating that the information was partially useful (6 resp.).

P1. Please evaluate the results of general knowledge concerning information that must be provided for posted workers (Q 30).

Findings of the analysis of answers received for Q30 show that most of the employers considered that most of the information listed under Q30 needed to be provided to posted workers. The most frequent answers are: country of posting (23 times), duration of posting (23 times), salary [...] (23 times), other benefits [...] (23 times), daily allowance [...] (21 times), conditions of returning to country of origin (19 times).

Other answers indicated the currency for paying the salary (12 times), the intuition for social security contributions (8 times) and the link to official websites with information on posting (7 times).

R1. Please evaluate the results of general knowledge concerning posted temporary workers (Q 31 and 32).

None of the respondents answered affirmatively to Q31, related to using posted temporary workers. Although they have not used the services of posted temporary workers, 17 respondents still answered Q32 (73,91%), stating that it is not possible to apply different working conditions to posted temporary workers. 6 respondents chose “cannot answer” (26,09%).

S1. Please describe the findings concerning knowledge and experience of collective agreements (Q 33-36) Whether there is certain relation between experience in bargaining and knowledge concerning application of collective agreements (relation of Q 33-34 and 36)?

The majority of the respondents (19 out of 23 - 82,61%) answered that they “cannot answer” whether collective agreement should be applied for posted workers. 3 respondents indicated opposite answers that collective agreement must be applicable to all posted workers, and 1 respondent indicated that collective agreement is not applicable for posted workers.

When answering Q34, to specify which type of collective agreements must be applied to posted workers, the majority of respondents – 17 out of 23 (73,91 %) chose “cannot answer”. Only a small part of the respondents decided to provide a specific answer: 2 respondents indicated “only those which are of general application under national law”, other 2 respondents indicated

“only those that would normally apply to similar companies in that territory, industry or professional field”, and the last 2 respondents - “not applicable at all”.

Findings of the analysis of answers received for Q35 show that 43,48% of the respondents (10 out of 23) do know that the trade union of host company may contact employer asking to participate in joint collective bargaining. But when asked about their practical experience in such cases, 22 respondents provided negative answers to Q36, and 1 respondent chose “cannot answer”.

From the answers provided to Q35 and Q36, it is impossible to establish a correlation between experience in bargaining and knowledge concerning application of collective agreements. The employers’ level of information and knowledge regarding the union representation of posted workers is not satisfactory at all. There is probability that some of the answers have been given very promptly, without thinking them over, and only when they were asked for details, to realize what the previous question(s) really meant.

T1. Other comments concerning situation of the level of information and knowledge of employers.

N/A

3.3. Analysis of findings from trade unions

A3. Please describe the findings on trade unions experience encountering posted workers from other EU Member states (Q no 3 and 4). Are there any tendencies regarding findings (Q no 3 and 4) and the level of trade union (Q no 1)?

A total of 12 answers from representatives of trade unions have been received, as follows: 8 of enterprise level, 2 of branch/territorial level and 2 of national level. All 12 trade unions are established and acting in Romania.

50% of the respondents indicated that they have encountered posted workers from other EU countries to Romania. The member state which is most frequently mentioned is France – 4 times, followed by Germany – 2 times, and Italy, Portugal, Spain, Greece and The Netherlands – 1 time each.

The individual answers provided by the trade unions have been analysed and no conditionality rule has been found between the level of the trade union and their experience with encountering posted workers. In fact, the trade union which met posted workers from most of the EU state members (7) has a branch/ territorial level. We also need to specify that the answer provided by this trade union included also UK. This indicates either that they did not pay much attention to the question, or did not know/ forgot that UK left the European Union in 2020.

Regarding the share of trade unions which had not have encounters with posted workers from EU states, 5 out of 6 are enterprise level.

B3. Please describe the findings on trade unions experience encountering posted workers from non-EU countries (Q no 5 and 6). Are there any tendencies regarding findings (Q no 5 and 6) and the level of trade union (Q no 1)?

58,33% of respondents answered affirmatively whether encountering with posted workers from non-EU countries – 7 out of 12. The most frequent answer was India - 5 times, then Pakistan and China – 2 times each, followed by Japan, Afghanistan, Ukraine, Moldova, Turkey, Russia, Serbia, Tunisia - 1 time each. There was also 1 answer for the Arab countries, but the respondents did not specify clearly which one.

After analysing the individual answers provided by the trade unions and comparing the two sets of answers from Q5 and Q6, we have found out that 5 out of 7 trade unions with experience in encountering posted workers from non-EU countries are enterprise level.

Another interesting finding is that the answers which contains the biggest number of non-EU states (8 countries) was provided by a branch/ territorial level trade union, the same who has the vastest experience with EU posted workers.

C3. Please describe the findings on trade unions experience encountering posted workers to other countries (Q no 7 and 8). Are there any tendencies regarding findings (Q no 7 and 8) and the level of trade union (Q no 1)?

Almost half of respondents (41,67%.) answered affirmatively whether encountering with workers posted to another EU member state (5 out of 12). The EU member state mentioned most was Italy – 3 times, followed by Germany and Spain – 2 times each, and then by France, Greece and The Netherlands – 1 time each. And again, UK was given as an answer, as in the case of O4. Also, a national level trade union representative answered that they have encountered workers posted to most of the EU member states, but did not specify any of those member states.

After comparing the data from Q1, Q7 and Q8, no tendencies regarding the findings and the level of trade unions have been found. But, as in the case of encountering posted workers from EU or non-EU member states, the same trade union – a branch/ territorial level, provided the answer with the biggest number of countries (7 countries). And again, UK is mentioned among EU member states.

D3. Are there some differences from most usual countries indicated by trade unions (Q no 4, 6 and 8) and relative answers from employees (workers)/employers?

After comparing the data from Q4, Q6 and Q8 in the questionnaire addressed to trade unions and the ones from Q5 and Q7 addressed to employers, it turned out that some of the EU and non-EU countries mentioned there are matching: the EU member states have an approx. 30% match (4 out of 13 checked answers) - Germany, France, Italy and Greece, and the match percentage for non-EU states is almost 35% (3 out of 11) - Japan, Ukraine and Moldova.

France and Germany are the most common EU member states mentioned both by the trade unions, and the employers, when it comes to posting of Romanian workers. Regarding the non-EU states, the three countries that were given as common answer by trade unions and

employers, do not occupy the first three positions in the list provided through Q6 of the trade union questionnaire, being mentioned just 1 time each.

E3. Please describe which are the most usual way of dealing with posted workers (Q no 9). Are there any tendencies regarding findings (Q no 9) and the level of trade union (Q no 1)?

The entire range of possible answers have been covered by the 12 trade unions which provided answers for Q9. 35,29% of the answers mentioned that they are in contact with individual posted workers where is possible (6 out of 17 specific answers). The next percentage – 29,41% (5 out of 17 specific answers) – is allocated, in equal share, to constantly publishing and providing general information about the trade union, as well as to posted workers applying to trade unions for different questions.

Only 1 trade union, at enterprise level, declared that they have close contact with employers hosting posted workers. 1 of the national level trade unions do not have direct contact with posted workers at all, as well as 1 of the enterprise level trade unions.

After analysing and comparing the data, no specific tendencies between answers to Q9 and the levels of trade unions have been noticed.

F3. Please evaluate the usual practise of providing information (Q no 10 and 11).

11 out of 12 respondents indicated several different methods of providing general information. The most popular chosen answer was providing general information about trade union on website (7 times). It was closely followed by general information about posted workers' rights in printed brochures or booklets (6 times), then general information about trade union in printed brochures or booklets (5 times), and the last general information about posted workers' rights on web site (4 times).

There was also 1 answer specifying that a trade union provides information “orally”, meaning they have direct contact with posted workers, as well as 1 answer saying that they do not have any collaboration with posted workers, hence they do not disseminate information to this target group.

Those respondents who answered affirmatively to Q10, indicated the main languages used for disseminating general information. The most popular language for providing information on trade union was Romanian, with a percentage of 50% (8 out of 16 answers checked). Surprisingly, English was mentioned 7 times, thus having a percentage of 43,75%, very close to Romanian. 4 of the trade unions (1 at national level and 2 at enterprise level) stated that they deliver information in both most mentioned languages – Romanian and English.

Japanese was also mentioned 1 time by an enterprise level trade union, the one which is hosting Japanese posted workers in Romania.

G3. What are usual reasons for workers applying to trade union (Q no 12)?

According to the answers given by the trade unions responding to this questionnaire, a percentage of 50% (5 out of 10 specific answers) stated that posted workers apply to trade unions for receiving general information about their rights, as well as for complaining about

possible violations of their rights (in equal share). One of the trade unions chose “both” as an answer; this answer has been accounted once in receiving general information about their rights, and once in complaining about possible rights’ violation.

There was also 1 trade union that could not give an answer to Q12, and 1 trade union that specified they do not have contact with posted workers.

H3. What are usual types of information needed by workers (Q no 13)?

From the total of 12 trade unions filling in the questionnaire, only 9 gave specific answers to this question. The most frequent types of information that posted workers usually need, as mentioned by the respondents, are (in equal share of 16,28% of all checked answers) other payments for work (7 times) and reimbursement of additional expenses (e.g. travel, accommodation) (7 times).

Other answers provided are working time/ rest periods (5 times), annual holidays (4 times), minimum wage (4 times), health, hygiene at work (4 times), conditions of employer’s accommodation (4 times), equality of treatment (2 times) and protective measures (2 times).

There was also 1 trade union that could not give an answer to Q13, and 2 trade unions (1 at national level and 1 at enterprise level) that specified they do not interact with posted workers.

According to these findings, trade unions state that the most important information necessary to posted workers is related to payment, and in particular to other kind of payments and to reimbursement of additional expenses. These are also the main issues thorough discussed by employers’ associations and trade unions, and which needs more attention from the decision makers in this sector.

I3. What types of help are provided usually for workers (Q no 14)? Are there any tendencies regarding findings (Q no 14) and the level of trade union (Q no 1)?

The most common support activity provided by trade unions, as shown from the analysis of the answers given to Q14 by the 12 respondents, is disseminating general information about national legal regulation (8 times). This is followed by general information about EU legal regulation (5 times), and then, in descending order, contacts of other persons/ institutions which can provide legal aid (4 times), specific individual legal evaluation of worker’s rights (3 times), legal advice (3 times), representation of workers before state institutions (2 times) and legal representation in court (1 time).

There were also 1 trade union that could not give an answer to Q14, and 2 trade unions (1 at national level and 1 at enterprise level) that specified they do not interact with posted workers.

An overview on the findings states that 73,08% of the activities mentioned by the trade unions are related to information and consultation: providing general information on legal regulation, national and EU (13 out of specific 26 answers) and individual legal evaluation and legal advice (3 out of 26 specific answers).

The rest of 26,92% consist in providing legal assistance - legal assistance: direct representation of the posted worker before state institutions (2 out of 26 specific answers) and legal

representation in courts (1 out of 26 specific answers), as well as contacting other persons/institutions which can provide legal aid (4 out of 26 specific answers).

J3. What types of communication are usually used by trade unions (Q no 15)? Are there any tendencies regarding findings (Q no 15) and the level of trade union (Q no 1)?

The findings show that the most common method of communication in cases of cross-border posting is the one with foreign trade unions of other countries (7 times), and it was mentioned by 1 national level, 2 branch level and 4 enterprise level trade unions.

Curiously, the other methods of communication were mentioned less often than expected – direct communication with sending employers - 3 times, and communication with competent authorities – 2 times.

None of the respondents has direct communication with the host enterprises, not even those at enterprise level, which post workers to other states (EU or non-EU). There were also 1 enterprise level trade union that could not give an answer to Q15, and 1 enterprise level trade union that specified they do not interact with posted workers.

Surprisingly, 3 out of the 12 trade unions filling in this questionnaire (other than those mentioned before) stated that they have no kind of communication - not with host/ sending companies, trade unions from other countries or foreign national competent authorities - for cases of cross border posting. 2 are enterprise level and 1 is national level trade union.

K3. Please describe the finding of other problems in the sphere of posting indicated by trade unions (Q no 16).

The answers given by the respondents indicated a series of problems that posted workers have to deal with. These has been grouped in categories, related to salaries/ per diem (2 times), accommodation/ housing (2 times), access to medical services (2 times), family reunification (2 times), difference of salaries (1 time), overtime working hours (1 time), and access to education for children (1 time).

There were 4 respondents stating that either the respondent does not know, or there is not the case, as they do not interact with posted workers.

L3. Other comments concerning situation of the experience of trade unions.

Most of the trade unions' representants which filled in the questionnaire were chairmen (7 pers. – 58,33%), followed by members of the trade union administrative body (4 pers. – 33,33%) and 1 common member (1 pers. – 8,33%).

An interesting fact is that no lawyer/ legal expert representing a trade union participated in our research by filling in the questionnaire.