A PRACTICAL GUIDE

Help with understanding legislation and cross-border postings

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Ministry of Labour, Family, Social Affairs and Equal Opportunities

Štukljeva cesta 44, 1000 Ljubljana, Slovenia

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# HOME

Free movement of services – which in addition to free movement of persons, goods and capital is one of the four fundamental freedoms, as defined in the Treaty on European Union – means that an undertaking or self-employed person who meets the conditions for carrying out a particular activity in their own country may carry out that activity anywhere in the EU. Consequently, an employer may send one of its employees to another country to carry out specific tasks for the employer as part of the provision of a particular service (posting).

##  Who is the website intended for?

The website is intended for a wide audience and aims to make the rights and obligations in a posting scenario more transparent and easier to understand. The content is structured in such a way that specific groups (**foreign service providers, employees, employers, competent public officials**) can easily search for and access relevant information on posting to and from the Republic of Slovenia (hereinafter: Slovenia).

## Definition of a posted worker

In accordance with the provisions of the Transnational Provision of Services Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 40/23), a posted worker is any natural person, regardless of nationality, who temporarily or regularly performs work in another EU Member State as part of the transnational provision of services by a Slovenian or foreign employer making the posting.

## Types of posting

* Posting of workers to the territory of a Member State on account of and under the supervision of the employer pursuant to a contract concluded between the undertaking making the posting and the party for whom the services are intended;
* Posting of workers to an establishment or to an undertaking owned by the group in the territory of an EU Member State on the basis of an equivalent posting act, if the posting is made to an affiliated undertaking;
* Posting of workers by an employment agency or agency for hiring out workers to a client established in the territory of an EU Member State.

# POSTING TO SLOVENIA

An employer established in a Member State of the European Union, the European Economic Area or the Swiss Confederation (hereinafter: foreign employer) may post workers in an employment relationship to Slovenia for the purpose of cross-border provision of services, provided that:

* it holds a valid A1 certificate for a posted worker falling within the definition of cross-border provision of services;
* it complies with the provisions of the labour legislation regulating the rights of posted workers and has not been found guilty by the Labour Inspectorate of the Republic of Slovenia in the last three years of more than one offence of obstructing or preventing access to premises or preventing the proper conduct of inspection tasks under the Act governing inspection, which resulted in a fine being imposed in one or more final decisions;
* the service is provided within the scope of activities for which foreign employers are registered in their home country, except in cases of the posting to an affiliated undertaking; and
* the service is provided in one of the following permissible ways:
	+ the service is provided on account of and under the supervision of the foreign employer pursuant to a contract with the service recipient;
	+ the service is provided based on an equivalent document when posting to an institution or undertaking registered in Slovenia with which the foreign employer has capital ties;
	+ the posting is made as part of hiring workers out to a client with its registered office or place of residence in Slovenia.

## Obligations of employers

### Social security – obtaining a certificate

Before posting a worker, the employer must obtain an A1 certificate issued by the Member State in which the employer is established, indicating the social security regulations applicable to the posted worker, or any other adequate certificate issued in accordance with the applicable international social security agreements that are binding on the Republic of Slovenia.

###  Registration of the beginning of the provision of services

Before providing services, the foreign employer is obliged to register online with the Employment Service of Slovenia (instructions) or to send a written notification of the star of the service provision to the Employment Service of Slovenia, Rožna dolina, c. VI/7, 1000 Ljubljana, containing the following information:

* the company name and registered office of the foreign employer;
* the name, date of birth, nationality of the posted worker and the address of the temporary residence in Slovenia if it has been registered by the posted worker or if there is an obligation to register it in accordance with the Act governing the registration of residence;
* the name and date of birth of the person authorised by the foreign employer to act as a contact person with the supervisory authorities, including the sending and receiving of documents and notifications, and the service of documents, in accordance with the provisions of the Act governing general administrative procedure;
* the type of service;
* the job title of the posted worker;
* the expected start and end dates of the service, i.e. the duration of the posting;
* the address or, if the service is to be provided at a location without an address, the GPS coordinates of the location.

 The Employment Service of Slovenia issues a statement confirming the completed online or written registration.

If circumstances arise during the period of posting that make it impossible to provide the cross-border service within 12 months, the foreign employer may extend the provision of services to 18 months, provided that it notifies the Employment Service of Slovenia with an explanatory note.

A foreign employer providing transnational services in international transport operations must complete or update the posting registration before the start of the service, using a standard multilingual form on the public interface linked to the Internal Market Information System (IMI). The registration must provide the following information:

* the company name and registered office of the foreign employer;
* the name and date of birth of the person authorised by the foreign employer to act as a contact person with the supervisory authorities, including the sending and receiving of documents and notifications and the service of documents, in accordance with the provisions of the Act governing general administrative procedure;
* the type of service;
* the expected start and end dates of the service, i.e. the duration of posting;
* the numbers of the Community licence for the provision of transport services;
* the name, date of birth, nationality, address of permanent residence and driving licence number of the posted driver;
* the date of conclusion of the employment contract with the posted driver;
* the registration mark of the motor vehicle.

The registration, in paper or electronic form, must be carried by the posted driver throughout the period of posting.

The transnational provision of services in the international freight and passenger transport sector means the performance of cabotage and non-bilateral international transport operations as defined in Directives 1072/2009/EC and 1073/2009/EC.

### Guarantee of rights

Foreign employers are obliged, at the time or for the duration of their posting to Slovenia, to grant their workers the rights provided for by the regulations of the Republic of Slovenia and the branch collective agreement concerning working time, breaks and rest periods, night work, minimum annual leave, remuneration, occupational health and safety, special protection of workers and equal treatment, if this is more favourable to the workers.

A derogation is allowed for services not provided in the construction sector:

* with regard to the granting of minimum annual leave and the amount of salary in the case of temporary work that has already started and that is an integral part of the contract for the supply of goods and which is carried out by the professional staff of the supplier, provided that such work does not exceed eight working days;
* with regard to ensuring the amount of salary, provided that the performance of temporary work by posted workers does not exceed one month in a single calendar year.

The following legislation prescribes the basic scope of the above-mentioned **minimum rights of workers**,whichforeign employers must comply with when guaranteeing the rights of their posted workers:

**Regarding payment under the Minimum Wage Act and the Employment Relationships Act**

The Minimum Wage Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 13/10, 92/15 and 83/18) stipulates that the minimum wage is a monthly wage for the work performed in full-time employment. The minimum wage does not include all additional payments prescribed by laws, regulations and collective agreements, nor does it include performance bonuses or remuneration for business performance agreed in a collective agreement or employment contract.

In accordance with the provisions of the Employment Relationship Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 21/13, 78/13 – corr., 47/15 – ZZSDT, 33/16 – PZ-F, 52/16, 15/17 – Constitutional Court Decision, 22/19 – ZPosS, 81/19 and 203/20 – ZIUPOPDVE, 119/21 – ZČmIS-A, 202/21 – Constitutional Court Decision, 15/22, 54/22 – ZUPŠ-1, 114/23 and 136/23 – ZIUZDS), a worker is entitled to a seniority bonus and an additional payment for special working conditions related to the distribution of working time, such as for night work, overtime, Sunday work, and work on public holidays and work-free days. The additional payments for special working conditions related to special burdens at work, unfavourable environmental influences and dangers at work which are not related to the difficulty of the work may be stipulated in a collective agreement.

The amount of the additional payments is determined by a branch collective agreement.

The minimum wage in Slovenia is determined once per year in the range between 120% and 140% of the minimum cost of living, taking into account the increase in consumer prices, wage trends, economic conditions, or economic growth and employment trends. The minimum wage is laid down by the minister responsible for labour after prior consultation with social partners.

From 1 January 2024, the minimum wage for work on a full-time basis is EUR 1253.

**Regarding annual leave, working time, special protection of workers and prohibition of discrimination in accordance with the Employment Relationships Act**

In accordance with the provisions of the Employment Relationship Act, a worker is entitled to annual leave in each calendar year, which may not be shorter than four weeks, regardless of whether the worker works full-time or part-time. The minimum number of days in a worker's annual leave depends on the distribution of working days per week for an individual worker. A worker is entitled to an additional day of annual leave for each child they have under the age of 15. Elderly workers, disabled workers, workers with a physical disability of at least 60% and workers caring for a physically or mentally disabled child are entitled to at least three additional days of annual leave.

The employer must pay an annual leave allowance of at least the minimum wage to workers who are entitled to annual leave. If the worker is only entitled to a proportionate amount of annual leave, or has a contract for less than full-time work, the worker is only entitled to a proportionate annual leave allowance.

The provisions of the Employment Relationships Act also regulate working time and minimum rest periods, stipulating that working time consists of effective working time (the time during which the worker performs work, is at the employer's disposal and fulfils their contractual work obligations) and a break of 30 minutes to which a worker employed on a full-time basis is entitled during the working day. The law also stipulates that full-time work may not exceed 40 hours per week and that the working week may not exceed 56 hours. A law and/or a collective agreement may also define full-time work as less than 40 hours per week, but not less than 36 hours, except for work involving an increased risk of injury or damage to health.

In addition to a break during working hours, workers are entitled to a rest period of at least 12 consecutive hours within a period of 24 hours between two consecutive working days and to a weekly rest period of at least 24 uninterrupted hours within a period of seven successive days. The minimum duration of the weekly rest period is calculated as an average over a period of 14 consecutive days.

The Employment Relationship Act also defines special working and employment conditions to ensure special protection for, among other things, workers who have not yet reached the age of 18 and workers who are entitled to such protection because of pregnancy or parenthood.

The Employment Relationship Act prohibits direct and indirect discrimination against workers – employers must ensure equal treatment of workers regardless of nationality, race or ethnicity, national or social origin, gender, skin colour, state of health, disability, religion or belief, age, sexual orientation, family situation, trade union membership, property status or any other personal circumstance.

**Regarding occupational safety and health as regulated by the Health and Safety at Work Act**

The fundamental aspects of occupational health and safety are regulated by the Health and Safety at Work Act (Official Gazette of the Republic of Slovenia [*Uradni list RS]*, No 43/11) or its implementing regulations, which address specific areas or procedures. The Health and Safety at Work Act stipulates the following basic obligations for employers:

* Employers are required to formulate and adopt a written safety statement setting out the methods and measures to be taken to ensure safety and health at work.
* Employers are responsible for ensuring occupational safety and health primarily by:
	+ entrusting occupational safety tasks to a safety officer and tasks of health protection to an authorised physician;
	+ taking measures to ensure fire safety, first aid and evacuation;
	+ informing the workers about the introduction of new technologies and equipment;
	+ training workers in occupational safety;
	+ providing workers with means and equipment for personal occupational safety, health examinations and periodically inspecting the working environment and equipment.
* Employers are required to lay down specific health requirements for a particular job.
* Employers may only allow workers to handle hazardous substances if these substances are accompanied by documentation in the worker's language.
* Employers must notify the Labour Inspectorate at least 15 days before the start of work.
* Employers must immediately report to the Labour Inspectorate any fatal accident at work or any accident at work that render a worker unfit for work, or any collective accident, dangerous occurrence or an established occupational disease.
* Employers must allow workers’ representatives to take part in discussions on all matters relating to occupational health and safety.
* Employers are obliged to finance all actions and measures related to occupational health and safety.
* Employers must keep all records and documents required by law.

**Regarding conditions for hiring out workers to clients under the Labour Market Regulation Act**

In accordance with the Labour Market Regulation Act (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 80/10, 40/12 – ZUJF, 21/13, 63/13, 100/13, 32/14 – ZPDZC-1, 47/15 – ZZSDT, 55/17, 75/19, 11/20 – Constitutional Court Decision and 189/20 – ZFRO, 54/21, 172/21 – ZODPol-G, 54/22, 59/22 – Constitutional Court Decision and 109/23), an employer hiring out workers to a client may start carrying out the activity if:

* during the last two years it has not incurred an enforceable fine for violating the regulations governing employment relationships, employment and work of foreigners, occupational health and safety, undeclared work, or the labour market;
* during the last two years it has had no outstanding liabilities arising from remuneration for work;
* during the last two years it has not appeared on the list of persons liable to tax with outstanding tax liabilities and on the list of persons not filing tax returns published by the Tax Administration of the Republic of Slovenia and the Customs Administration of the Republic of Slovenia, and has no outstanding tax liabilities on the day of filing the application;
* it meets the staff, organisational, spatial and other conditions prescribed in detail by the minister responsible for labour;
* the provision of temporary work force is registered as its principal activity;
* it provides a bank guarantee in the amount of not less than EUR 30,000;
* a foreign employer established in another Member State of the EU, the EEA or the Swiss Confederation and intending to carry out the activity of hiring out workers to a client in the Republic of Slovenia must submit an application for a licence and entry in the records with the ministry responsible for labour. The application must be accompanied by a copy of the document not older than one year, on which basis the employer is allowed to carry out the activity in the country in which it is established, as well as a certified translation of this document into Slovenian, and evidence of compliance with the above-mentioned conditions that cannot be provided of its own motion. Entry in the register must be made on the day the decision issued by the ministry responsible for labour becomes final, with that ministry issuing a certificate to the employer for the provision of workers. The activity may commence on the date on which it is entered in the register.

In granting the above rights to posted workers, the foreign employer is obliged, in addition to the provisions of the above regulations, to comply with the provisions of the collective agreement relating to these rights for the activity in which the service is provided, if such an agreement has been concluded for a given country. The records of collective agreements concluded for a given country are kept by the ministry responsible for labour. The information that employers need to calculate the total remuneration based on the main collective agreements can be obtained by selecting the relevant collective agreement on the website of the Chamber of <Commerce and Industry of Slovenia.

### Obligations to supervisory authorities

A foreign employer must ensure that, during the cross-border provision of services in Slovenia, the following documents are kept at the place of service provision for all posted workers and made available to the supervisory authority upon request: a copy of the contract between the client of the service and the foreign employer, an equivalent document in the case of posting to an affiliated company, a certificate of registration of the commencement of the provision of services, copies of the employment contracts, copies of pay slips, working time registration records, evidence of wages paid, or copies of equivalent documents, and the A1 certificate. At the request of the supervisory authority, the foreign employer must provide translations of the above documents into Slovenian.

Posted drivers must carry with them the following documents and produce them at the request of the supervisory authority: the posting registration completed using a standard multilingual form on the public interface linked to the Internal Market Information System, the electronic consignment note (e-CMR) or the consignment note (CMR) or any other relevant transport document containing the information referred to in Article 8(3) of Regulation 1072/2009/EC, as well as the tachograph records and the country symbols of the EU Member States in which the posted driver has provided international road transport or cabotage operations.

The supervisory authorities may request the aforementioned documents for a period of 24 months after the end of the service.

##  Obligations of posted workers

Foreigners who are posted to work in Slovenia by a foreign employer must have their residence status settled at the time of posting in accordance with the provisions of the Foreigners Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 91/21 – official consolidated version, 95/21 – corr., 105/22 – ZZNŠPP, 48/23 and 115/23).

### Posted workers – citizens of EU Member States, the EEA or the Swiss Confederation

EU citizens posted to work in Slovenia by a foreign employer may stay in Slovenia for 90 days from the date of their arrival in the country without registering their residence. If they want to stay in Slovenia for more than 90 days, they must register their residence with the administrative unit at their place of residence before the end of the 90-day period.

The administrative unit issues the EU citizen with a certificate confirming that the EU citizen has submitted an application for temporary residence registration, which allows the worker to reside in Slovenia until a final decision is made on the application. The administrative unit issues a residence registration certificate to EU citizens if they have a valid identity card or passport or a certificate of employment. An application for the issue or renewal of a residence registration certificate for EU citizens must be submitted using form 1 of the Rules on the residence registration certificate and residence permit for EU citizens and their family members and family members of Slovenian citizens (Official Gazette of the Republic of Slovenia [*Uradni list RS]*, Nos 17/22, 98/23 and 129/23).

### Posted workers – third-country nationals

If workers posted to Slovenia by a foreign employer are third-country nationals, they must obtain a single permit before entering and residing in Slovenia for the purpose of providing transnational services. An application for a single permit may be filed by the foreign national or by the employer. A foreign national must apply for a first single permit at a diplomatic mission or consular post of the Republic of Slovenia abroad, while an employer may also apply to the administrative unit where the foreign national will reside or at the administrative unit where the foreign national is established or where the activity will be carried out.

The administrative unit issues a single permit if the foreign national has a valid travel document, has sufficient means of subsistence, and is covered by social security cover in the country from which the foreign national is posted. The single permit is issued for the duration of the work specified in the contract or in the act of posting for specific work, or for a maximum period of one year, with the possibility of renewal.

An application for the issue or renewal of a single permit for the transnational provision of services by posted workers must be submitted on form 15/1, which is annexed to the Rules on the method of issuing residence permits and the certificate of the rights as a frontier worker, the method for taking fingerprints, the method of indicating the permit’s termination, and the price of the residence permit card and the certificate of the rights as a frontier worker (Official Gazette of the Republic of Slovenia [*Uradni list RS]*, Nos 83/21, 17/22, 98/23 and 134/23).

## Fines and sanctions

1. Pursuant to Article 29 of the Transnational Provision of Services Act:
* A foreign employer who provides a cross-border service without complying with the conditions is subject to a fine of between EUR 6,000 and EUR 60,000. A fine of between EUR 600 and EUR 6,000 is also imposed on the person responsible.
* A fine of between EUR 2,000 and 20,000 is imposed on a foreign employer for the following offences:
	+ failure to register the service before starting to provide it, incomplete registration or failure to provide a service in accordance with the registration;
	+ failure to keep documentation or to produce documentation on request by the competent supervisory authority.

A fine of between EUR 200 and EUR 2,000 is also imposed on the person responsible.

1. Pursuant to Article 145 of the Foreigners Act, a fine of between EUR 800 and EUR 1,200 is imposed on a foreign national who is staying in Slovenia illegally or who is staying contrary to the purpose for which the foreign national has been issued with a residence permit.
2. Pursuant to Article 217 of the Employment Relationships Act, a fine of between EUR 3,000 and EUR 20,000 is imposed on an employer who fails to grant posted workers performing temporary work in Slovenia rights relating to working time, breaks and rest periods, night work, minimum annual leave, remuneration, occupational health and safety, special protection of workers and equal treatment, where these are more favourable to the workers.
3. Pursuant to Article 177 of the Labour Market Regulation Act, a fine of between EUR 10,000 and EUR 30,000 is imposed on an employer hiring out workers to the client for the following offences:
	* failure to guarantee a posted worker all the rights arising from the employment relationship during the period of employment;
	* limiting the possibility of a posted worker to enter into an employment relationship with the client after the end of the posting period;
	* requiring a posted worker to carry out work as part of other activities for which the employer is registered or to carry out work with posted workers that it has been awarded on the basis of contracts concluded under civil law, or
	* demanding payment or other compensation from a posted worker or candidate for employment due to their posting to a client or the conclusion of an employment contract with the client.

For the same offence, a fine of between EUR 5,000 and EUR 10,000 is imposed on an employer who hires out workers and employs ten or fewer workers, and a fine of EUR 4,000 is also imposed on the responsible person of the employer who hires out workers.

1. Pursuant to Article 178 of the Labour Market Regulation Act, a fine of between EUR 10,000 and EUR 30,000 is imposed on the client for:
	* failing to comply with the regulations governing employment relationships during the period of posting;
	* failing to allow a posted worker to be informed about job vacancies or types of work provided by the client;
	* failing to provide a posted worker with the same opportunities for a permanent employment contract with the client as are available to workers already employed by the client, or for
	* accepting a posted worker from an employer hiring out workers who does not hold a licence to carry out that activity and is not entered in the register or records.

For the same offence, a fine of between EUR 5,000 and EUR 10,000 is imposed on the client who employs ten or fewer workers, and a fine of EUR 4,000 is imposed on the responsible person of the client.

## Additional information

**Information on entry and residence**

**Information on compliance with the legislation**

**Other information**

# POSTING FROM SLOVENIA

A Slovenian employer who normally carries out its activity in Slovenia and complies with the main provisions of the labour legislation governing workers' rights may post a worker to provide services in another EU Member State, the EEA or the Swiss Confederation. This can be arranged in one of the following permitted ways, namely:

* The service is provided on account of and by a Slovenian employer who posts workers from Slovenia;
* The service is provided on the basis of an act of posting to an affiliated company in another Member State;
* The service is provided as part of the hiring out of workers to a client established in another Member State.

## Obligations of employers

### Employment contract

An employer may temporarily post a worker to another EU Member State under an employment contract. If the employment contract does not provide for the possibility of working abroad, the employer and the worker must conclude a new employment contract. If the possibility of working abroad is already provided for in the employment contract, the conditions for working abroad may be specified in an annex to the contract.

In addition to the obligatory components laid down in the Employment Relationships Act, the employment contract or annex on whose basis the worker is to be posted must also contain provisions on:

* the duration of the work abroad,
* holidays and work-free days,
* minimum annual leave,
* the amount of the salary and the currency in which it is be paid,
* additional insurance for health care abroad,
* other income, in cash or in kind, to which the worker is entitled while working abroad,
* the manner of ensuring and exercising rights related to payment for work and other benefits which are provided in a different manner under the regulations of the state in which the work is performed, but this must be at least within the scope provided in this Act if not more favourable to the worker,
* the conditions of return to Slovenia.

### Obtaining an A1 certificate

Before posting a worker, the employer must obtain an A1 certificate confirming that the posted worker meets the conditions for continued coverage under the social security legislation of the Republic of Slovenia during the period of work in another country, and is thus exempt from the obligation to be covered by the relevant social security in the country of posting.

The decision to issue an A1 certificate is taken by the Health Insurance Institute of Slovenia. The procedure for issuing an A1 certificate depends on the specific nature of the work performed by the individual worker.

If an employer wants to post a worker who is a third-country national, the procedure for issuing an A1 certificate must take into account certain specificities that apply in other countries (the United Kingdom, Denmark, Norway, Iceland, Liechtenstein and the Swiss Confederation). For more detailed information, see the Frequently Asked Questions tab.

#### Occasional pursuit of activity in another EU Member State, the EEA or the Swiss Confederation (Article 12 of Regulation (EC) No 883/2004)

Employers must apply for the A1 certificate through the SPOT system at least 30 days before the posting begins. They should attach a copy of the employment contract with the worker to be posted, together with the service contract or the posting act.

The Health Insurance Institute of Slovenia issues an A1 certificate within five working days at the latest if the following conditions are met:

* The worker for whom an application for A1 certificate has been submitted does not already have a valid A1 certificate issued for the same period;
* The employer has been registered in the Slovenian Business Register for at least two months;
* The employer has a transaction account that is registered in the Tax Register in accordance with the Act governing financial administration and is not blocked;
* Employers with between 5 and 10 workers employ at least one worker who has been continuously covered by compulsory pension and disability insurance, compulsory health insurance, parental protection insurance and unemployment insurance (hereinafter: compulsory social security) in the Republic of Slovenia for at least six months or, since the establishment of the employer, if the period since establishment is shorter; or employers with more than 10 workers employ at least 3 workers who have been continuously covered by compulsory social security in the Republic of Slovenia for at least six months, or since the establishment of the employer, if the period since establishment is shorter;
* The employer declares, under penalty of criminal and material liability, that it actually carries out an activity in the Republic of Slovenia on a regular basis;
* The employer has not been found guilty by a competent authority of the Republic of Slovenia in the last three years of more than one violation relating to remuneration for work, working hours, undeclared work, assessment of risks to occupational health and safety, training of workers for safe work or ensuring a safe working environment and the use of safe work equipment, for which it has been fined by one or more final decisions;
* The employer has submitted withholding tax returns on income from employment for the last six months preceding the month in which the application for the A1 certificate was submitted, or for the period since the employer was established, if this period is less than six months, and has no outstanding tax liabilities claimed by the Financial Administration of the Republic of Slovenia that exceed EUR 50;
* The worker to be posted has been continuously covered by compulsory social security in the Republic of Slovenia for at least 30 consecutive days based on full-time employment or by the relevant social security on another legal basis. The condition of full-time employment does not apply to a worker who is subject to compulsory social security in the Republic of Slovenia on the basis of part-time employment if the worker's working time has been reduced in accordance with the regulations governing pension and disability insurance or parental protection insurance, or if the worker has been employed on a part-time basis for at least six months by the employer who intends to post the worker.

#### Pursuit of activity in two or more EU Member States, the EEA or the Swiss Confederation

A worker who performs work for a Slovenian employer in two or more countries as part of an employment relationship may obtain an A1 certificate valid for work in multiple countries. The application and procedure vary depending on the type of work to be performed by the worker during their posting.

In order to obtain an A1 certificate, an employer or a self-employed person established in Slovenia may, for activities of international road transport, assembly or service/repair work, submit an application via the national business support portal ~~SPOT~~ up to 30 days before the start of the service. The application must be accompanied by an employment contract and any annexes relating to the performance of work abroad.

The Health Insurance Institute of Slovenia issues an A1 certificate within five working days at the latest if the following conditions are met:

* The worker for whom the application for an A1 certificate has been submitted has permanent or temporary residence in Slovenia and the posted worker has registered it in accordance with the Act regulating the registration of residence or there is an obligation to register it in accordance with the Act regulating the registration of residence, or the person has legal residence in the Republic of Slovenia in accordance with paragraph 8 of Article 6 of this Act, and the person concerned is a citizen of a third country;
* The worker for whom an application for an A1 certificate has been submitted does not already hold a valid A1 certificate that overlaps in whole or in part with the period for which the application for an A1 certificate has been submitted;
* The employer has declared, under penalty of criminal and material liability, that the person for whom the application for an A1 certificate has been submitted is likely to be regularly employed or self-employed in at least two EU Member States during the period for which the A1 certificate is issued,
* The employer carries out the activity in Slovenia,
* The employer is not in breach of the main provisions of labour legislation relating to workers' rights,
* The employer has not had its A1 certificate withdrawn pursuant to points 1, 2, 3 and 4 of paragraph two of Article 12 or annulled based on point 3 of the third paragraph of Article 12 of the Transnational Provision of Services Act within the last 12 months.

### Notifying the Health Insurance Institute of Slovenia

After obtaining the A1 certificate, the employer is obliged to notify the Heath Insurance Institute of Slovenia (HIIS) of any changes that occur during the period of the posting, especially if the posting does not take place as planned or ends earlier than planned.

Throughout the A1 certificate’s validity, the applicant must notify the HIIS within five working days of any changes that have occurred during the period of the posting and that relate to the information contained in the A1 certificate, especially if the posting does not take place as planned or ends before the planned date.

The applicant may, within a period of six months after the expiry of the A1 certificate, notify the HIIS if the posting commenced later than the date on which the A1 certificate became valid, ended prematurely, or failed to materialize. Upon receipt of this notification, the HIIS will adjust the A1 certificate’s validity period accordingly.

### Continuity of employment

The employer and the posted worker must have an ongoing employment relationship throughout the period of posting. This means that the worker will perform tasks within the employer's organised work process and under the employer's direction and supervision. However, an exception to this requirement applies ~~to postings~~ by employers who hire out workers to another client (i.e. agencies for hiring out workers), as regulated by the Act governing employment relationships.

### Guaranteeing the rights of posted workers

Employers must comply with the provisions of applicable regulations and relevant collective agreements that have been declared universally applicable by the countries to which workers are posted, if they are more favourable to the worker. This applies to:

* the level of pay, including job performance bonuses and allowances,
* the length of annual leave and the amount of holiday pay,
* working hours, breaks and rest periods,
* the protection of workers on the grounds of pregnancy and parenthood, and the protection of workers under the age of 18,
* prohibition of discrimination,
* occupational health and safety; and
* conditions for hiring out workers to the client.

Employers should contact the competent authorities of the country to which they intend to post workers to obtain information about how and to what extent these rights are guaranteed by the national laws of other countries and what other obligations those countries impose in these circumstances.

##  Obligations of posted workers

### Refusal of posting

If the applicable employment contract provides for work abroad, the worker may refuse to be posted abroad for legitimate reasons, such as:

* pregnancy,
* the care of a child under the age of seven,
* the care and protection of a child under the age of 15 if the worker lives alone with the child and provides care and protection of the child,
* disability,
* health,
* other reasons provided for in the employment contract and/or the collective agreement, which are directly binding on the employer.

### Residence arrangements

Posted workers must arrange their residence in the EU Member State to which they are posted in accordance with the national regulations of the EU Member State where the work will be performed. Information on the procedures to be followed may be obtained from the competent authorities of the country to which the workers will be posted.

##  Fines and sanctions

Pursuant to Article 217a of the Employment Relationships Act, a fine of between EUR 1,500 and EUR 4,000 is imposed on an employer for failing to ensure the worker's return to Slovenia after the end of work abroad. For the same offence, a fine of between EUR 300 and EUR 2,000 is imposed on a smaller employer – a legal entity, a sole trader or a natural person who performs independent activity.

Pursuant to Article 177 of the Labour Market Regulation Act, a fine of between EUR 10,000 and EUR 30,000 is imposed on an employer who hires out workers to the client for the following offences:

* failure to guarantee a posted worker the rights arising from the employment relationship during the period of employment;
* limiting a posted worker’s chances of entering into an employment relationship with the client after the end of the posting period;
* requiring a posted worker to carry out work as part of other activities for which the employer is registered or to carry out work with posted workers that it has been awarded on the basis of contracts concluded under civil law; or
* demanding payment or other compensation from a posted worker or candidate for employment based on posting the worker to a client or the conclusion of an employment contract with the client.

For the same offence, a fine of between EUR 5,000 and EUR 10,000 is imposed on an employer who hires out workers and employs ten or fewer workers and a fine of EUR 4,000 is also imposed on the responsible person of the employer who hires out workers.

##  Additional information

**Liaison offices and authorities responsible for providing country-specific obligations**

**Tax treatment of income for posted workers**

**Additional information on social security for posted workers**

**Additional information on the A1 certification procedure**

**Additional information on the payroll system**

**Checking the validity of an A1 certificate**

# BREXIT

## United Kingdom nationals residing in Slovenia

United Kingdom nationals and their family members who were legally residing and working in Slovenia on 31 December 2020 and who intended to continue residing and working in Slovenia after 1 January 2021 retain the same status on the Slovenian labour market as guaranteed to them by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. This means that the rights of the workers and their family members remain unchanged and they may reside and work in Slovenia under the same conditions as provided for in the Foreigners Act.

The right of United Kingdom nationals to free access to the Slovenian labour market is laid down in Article 5 of the Employment, Self-Employment and Work of Foreigners Act.

## Posting of workers to the United Kingdom

The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part, was published in the Official Journal of the EU L 444 of 31 December 2020 (hereinafter: the Agreement). The Agreement has been temporarily applied in reciprocity since 1 January 2021. Further information is available at.

The Agreement also allows the applicant to obtain a certificate confirming the social security cover will continue in the United Kingdom for the period of the posted worker's performance of work abroad (A1 certificate). The conditions for obtaining this certificate are determined by the Protocol. The EU regulations (Regulation (EC) 883/2004, Regulation (EC) 987/2009) no longer apply to the United Kingdom. Workers posted to the United Kingdom are similarly not subject to the Transnational Provision of Services Act. The A1 certificate may be used until a new form that is specifically drafted to cover the posting of workers to the United Kingdom is prescribed.

Applicants who completed the questionnaire for employment in a third country (United Kingdom) after 1 January 2021 and submitted it to the Health Insurance Institute of Slovenia (HIIS) may apply for an A1 certificate retrospectively (i.e. with a period of posting from 1 January 2021 onwards) and the HIIS may issue it accordingly. It is the applicant’s responsibility to ensure that the person is registered and deregistered under the correct insurance basis. For more information on the issuance of A1 certificates, please click here.

# LEGISLATION

The cross-border provision of services by posted workers between EU/EEA Member States is subject to international and national legal frameworks that regulate the basic rights and obligations of the parties involved.

The international legislation applicable to the EU/EEA area can be divided into two sets of legal bases governing the posting of workers.

* **The first set of rules** governs the actual process of providing services, the minimum standards that service providers must ensure for their posted workers, supervision and cooperation between supervisory authorities, and access to key information. Four documents are particularly relevant to the first set:
	+ Directive 96/71/EC – sets out a list of basic terms and conditions of employment that must be guaranteed to workers posted abroad by employers in the country to which they are posted (the host country). It aims to ensure the protection of workers and a level playing field for service providers.
	+ Directive 2014/67/EU – addresses issues such as the abuse and circumvention of posting rules, the liability in subcontracting chains and the exchange of information between EU Member States.
	+ Directive 2018/957/EU – lays down rules on the working conditions and health and safety of posted workers and aims to ensure fair pay and a level playing field between posting undertakings and local undertakings in the host country, while respecting the principle of free movement of services).
	+ Directive 2020/1057/EU – lays down specific rules for posting drivers in the road transport sector and the effective enforcement of these rules. It provides rules that are better adapted to the highly mobile nature of work in the road transport sector. It aims to eliminate inconsistencies in the interpretation, application and implementation of the rules on posting workers in the road transport sector in the EU Member States.
* **The second set of** rules lays down the rules on coordinating social security systems, which ensure that acquired social security rights are maintained when working in or moving to another Member State. These rules also limit the time a posted worker can work. The following regulations are of particular relevance in this area:
	+ Regulation 883/2004/EC,
	+ Regulation 987/2009/EC and
	+ Regulation 1231/2010/EU (relates to third-country nationals).

The Transnational Provision of Services Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 10/17) is the basic national regulation governing the transnational provision of services and, in this context, the posting of workers abroad. The Act lays down the conditions under which legal and natural persons registered to carry out an activity and established in the Republic of Slovenia may temporarily provide services in another EU Member State and the conditions under which legal and natural persons registered to carry out an activity and established in another EU Member State may temporarily provide services in the Republic of Slovenia. This Act’s provisions also apply to the cross-border provision of services to or from the Member States of the European Free Trade Association (Iceland, Norway, Liechtenstein, and Switzerland).

# FREQUENTLY ASKED QUESTIONS

**A Slovenian company hires another Slovenian company to perform some work in Austria. Who should be named as the client on the application for an A1 certificate, as both companies are based in Slovenia?**

You should name the Slovenian company that hired you to carry out the work as the principal on the application for an A1 certificate.

**A Slovenian repair technician visits three customers in Austria in one day. Is it possible to obtain an A1 for that day, listing all the customers visited (either under Article 12 or 13 of Regulation 883/2004)? This is required by the Austrians.**

Pursuant to Article 9 of the Transnational Provision of Services Act, it is possible to apply for an A1 certificate for cross-border work in at least two EU Member States~~.~~

**Is there any guarantee that host countries will accept the A1 certificate?**

It is not the responsibility of foreign supervisory authorities to accept or reject A1 certificates issued by the Slovenian competent authority. However, in case of doubt, foreign authorities can inform the Health Insurance Institute of Slovenia, which will re-examine the conditions under which the A1 certificate was issued.

**An employee has been posted to work in an affiliated company in Switzerland for one year, for which the posted employee obtained an A1 certificate on the basis of Article 12 of Regulation 883/2004. During this period, the posted person will work at the regional centre for internal audit of affiliated companies, where they will learn about internal audits. This also includes field visits with a Swiss colleague to affiliates in the US, Switzerland, Austria and Italy. The service of internal audit is charged to affiliated companies. Is this possible in view of the explanation provided so far and, if so, what A1 certificate would the posted person need?**

The A1 certificate, issued under the Transnational Provision of Services Act, allows work to be carried out exclusively in one location.

Based on your description, we suggest that you consider the possibility of obtaining an A1 certificate based on Article 13 of Regulation (EC) No 883/2004 for work in affiliated companies in Switzerland, Austria and Italy. However, for work at affiliates in the US, you would need to obtain appropriate commercial insurance in accordance with US regulations.

**Given that the Transnational Provision of Services Act does not apply to third countries, where is the dividing line between a business trip and a posting?**

The place of work abroad (whether in the EU or in third countries) is not a relevant factor in distinguishing between a business trip and a posting.

**An individual employed by a Slovenian company travels to Austria to negotiate the sale of products to Company X in Austria. At the meeting, the price and terms of the sales contract are agreed, and the sales contract is subsequently signed and sent by post. The products are then delivered per order from Company X. Is this meeting considered a business trip or a posting? The Ministry of Labour and Social Affairs has explained that since the meeting is not charged to Company X and there is no customer for the service, the question of competition in the market remains open.**

The Ministry's explanation of the distinction between a business trip and a posting serves as guidance and emphasises that in practice the circumstances of each case must be fully examined.

Alternatively, based on the circumstances described above, we conclude that the case in question is a business trip. In this particular case, the employee's work does not fall within the scope of the company’s registered activities, the posting company is the end user of the work performed and is not paid directly for the work performed, and the work performed by the employee does not constitute competition with other companies in the market.

**Is an employee entitled to reimbursement of travel expenses (e.g. air ticket, public transport, fuel for the employee's car) incurred in connection with a posting abroad and how are these expenses correctly calculated?**

In both cases, namely business trips and international postings, employees are entitled to reimbursement for expenses incurred in performing specific duties and tasks arising from the employment relationship, as both scenarios involve the exercise of rights and obligations arising from the employment relationship.

Article 130 of the Employment Relationships Act established workers’ general entitlement to reimbursement of work-related expenses. However, the specific way in which this right is exercised and the detailed conditions for its implementation are laid down in collective agreements and general acts of the employer. In this case, in addition to the general labour legislation, the provisions of the collective agreement that are binding on the employer must be taken into account. Questions on the interpretation of collective agreements can be addressed to the relevant collective agreement interpretation committee, which has been set up for the purpose of interpreting collective agreements. The interpretations of collective agreements already adopted by the interpretation committees are published in the Official Gazette of the Republic of Slovenia.

**Is a specific case a posting or a business trip?**

In determining whether to use the institute of posting or the institute of a business trip, please note that this should be determined on a case-by-case basis, based on a full assessment of the circumstances concerning the individual case. In light of the statutory provisions and relevant case law, we consider that, in terms of labour law, the temporal component is not a relevant distinguishing criterion, but that only the nature of the work should be taken into account. While the following criteria may be helpful in making this determination, it should be noted that they are not exhaustive and should be considered as examples.

As the work of posted workers is subject to the control of the country in which the work is carried out, it is advisable, in the event of doubt as to which institute to use, to contact the competent authorities in the host country in order to obtain reliable guidance.

|  |  |  |
| --- | --- | --- |
| **CRITERION** | **POSTING** | **BUSINESS TRIP** |
| Type of work | The work is carried out as a cross-border service within the scope of an activity specified in the company's articles of association or partnership agreement. | The work is necessary for the existence and pursuit of the company's activity, but does not constitute the direct provision of a service by the company within the scope of an activity specified in the company's articles of association or partnership agreement. |
| End-user of the service | Client of the service | Employer |
| Employer's income | The employer expects to receive a direct, contractually agreed payment for the work performed by the worker. | The employer does not expect to be paid directly for the work performed by the worker. |
| Market in another country | The company enters directly into the market of another country and competes with other companies operating in that market. | The company does not directly enter into the market of another country and does not compete with other companies operating in that market. |

*EXAMPLE:*

POSTING A company registered in the construction sector in Slovenia concludes a contract to carry out the final works on a building in Austria. Under this contract, a worker employed by the company in question performs the tasks of a ceramic tiler in Austria.

* The worker performs tasks within the scope of the employer's registered activity.
* The worker performs tasks under a contractual service agreement for which the employer expects to be paid.
* The company for which the worker performs tasks enters into the Austrian labour market and competes with other companies in the sector.

BUSINESS TRIP A company registered in the construction sector seeks to conclude a contract to complete the final construction work on a building. To this end, a worker employed by the company in question negotiates a contract in Austria.

* The worker performs tasks that are essential for the company’s operations, although not directly related to a specific activity.
* The worker's employer is the ultimate user of the worker's services and does not receive the payment for the work performed by the worker.
* The company for which the worker performs work does not enter into the Austrian labour market and does not compete with other companies in the sector.

**When is it necessary to take a break between the first and second posting?**

Decision No A2 of the Administrative Commission for the Coordination of Social Security Systems stipulates in point 3(c) that once a worker has ended a period of posting, no new period of posting can be authorised for the same worker, by the same undertaking and to the same Member State, until at least two months have elapsed since the end of the previous period of posting. This means that, as a general rule, after a 24-month posting in one Member State, a worker can be posted immediately to another Member State by the same undertaking, but only after a two-month period in the same Member State.

**Must the place of work be specified in the employment contract or can it be specified in an annex to the employment contract?**

Under the Employment Relationships Act, the main condition for posting a worker abroad is that the obligation or possibility of temporary work abroad is agreed upon in the employment contract. If the employment contract does not provide for the possibility of working abroad, the employer and the worker must conclude a new employment contract for the temporary work abroad, in accordance with paragraph three of Article 208 of the aforementioned Act.

The place of work may already be specified or outlined (e.g. region, country, etc.) in the employment contract that provides for the possibility of working abroad. Subsequently, the place of work should be specified in an annex to the employment contract, together with the other components referred to in Article 209 of the Employment Relationships Act (ZDR-1), before the worker is actually posted abroad.

**When is a posting abroad considered long-term?**

Labour law does not distinguish between short-term and long-term postings or between postings based on the time component.

**Is a posted worker entitled to a day off on days recognised as Slovenian civic holidays while working abroad?**

The worker and the employer have the possibility to agree on holidays and days off either for the celebration of the host country's public holidays or for the celebration of the public holidays of the country from which the worker is posted, but it is also possible to agree on both.

**If I am posted abroad, does the time spent travelling there count as working time?**

In accordance with national legislation or paragraph two of Article 142 of the Employment Relationship Act, effective working time is not only the time during which a worker carries out their work, but also any other time during which the worker is at the employer's disposal and fulfils their obligations arising from the employment contract. The Employment Relationships Act does not specify what these periods are.

**Which country's regulations apply when determining the duration of working hours of posted workers?**

The employment contract for work abroad must contain the obligatory components listed in Article 31 of the Employment Relationships Act, as well as specific rights and obligations relating to work outside the home country.

The minimum standards for maximum working time in the Member States are harmonised through relevant directives. However, the transposition of a directive into the legal framework of each Member State varies according to its internal arrangements.

For example, Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of providing services (OJ L, No 18, 21 January 1997) has been transposed into Article 210 of the Employment Relationships Act to regulate the labour rights of workers posted to Slovenia. This Article defines the scope of rights that the employer must grant to workers posted to Slovenia in accordance with Slovenian legislation, if this is more favourable to them. These include rights laid down in regulations and branch collective agreements and cover working hours, breaks and rest periods, night work, minimum annual leave, pay, occupational health and safety, special protection for workers and equal treatment. The Article also provides for certain exceptions (see paragraphs three, four and five of Article 210 of the Employment Relationships Act- ZDR-1).

As mentioned above, it is necessary to check how such posting regulations are transposed and regulated in the legislation of the Member State to which the workers are to be posted.

**Is it mandatory to comply with the collective agreements of the country where the posted worker temporarily works during the period of posting?**

Paragraph 3 of Article 6 of the Transnational Provision of Services Act states that, during the period of posting, the employer must grant the worker the rights guaranteed by the laws, regulations, branch collective agreements or other general acts applicable to the activity and regulating working time, breaks and rest periods, night work, minimum annual leave, pay, occupational health and safety, special protection for workers and the provision of equal treatment in the country of posting. These rights must be granted if more favourable to the worker.

The conditions to be provided by the employer therefore depend on the country to which the worker is posted. If the conditions provided for by Slovenian legislation are more favourable to the worker than those in the country of posting, the Slovenian legislation applies.

**Can an employer post a worker with whom it has a contract for the provision of cross-border services?**

An employer may only post workers with whom it has concluded an employment relationship and who has been continuously covered by compulsory social security in Slovenia for at least 30 days.

**Can we post workers to another EU Member State to provide a service for which we are registered as an enterprise, using the client's equipment and under the client's direction?**

In accordance with Article 4 of the Employment Relationships Act, an employment relationship is a relationship between a worker and an employer in which the worker voluntarily integrates into the employer’s organised work process and in which, in return for payment, continuously carries out work in person under the employer’s direction and supervision. It also follows from paragraph 1 of Article 4 of the Transnational Provision of Services Act that, during a posting under a contract with a client, a worker may perform work solely under the employer’s direction.

In the scenario presented above, performing work in the circumstances described would lead to the conclusion that the employment relationship no longer exists and that the worker is at the mercy of the client, which is unlawful.

EXAMPLE: An enterprise has a registered activity of assembly, window fitting or welding, but it does not have its own equipment and sends its workers to companies with which it has a business cooperation agreement. In doing so, the company is not only circumventing current labour legislation, but also an EU directive that requires every worker to have the right to equal pay and benefits while working for the employer.

**What rules apply to international road transport workers?**

For international road transport workers, European legislation requires the acquisition of an A1 certificate in accordance with Article 13 of Regulation 883/2004. The application for an A1 certificate is to be submitted by the employer via the Slovenian Business Point (SPOT), a national online portal for businesses and entrepreneurs. A foreign employer or a foreign driver must complete or update the posting declaration using a standard multilingual form on the public interface linked to the Internal Market Information System (IMI) and provide it to the posted driver before the start of the service. In addition, the drivers must carry with them during service provision a valid A1 certificate, an electronic consignment note (e-CRM) or a consignment note (CRM), as well as tachograph records with the country symbols of the EU Member States in which the driver has carried out international transport or cabotage operations.

**Is the employer obliged to notify the Health Insurance Institute (HIIS) of a change in the insurance base when a worker is posted abroad?**

From 1 January 2024, the special insurance base (002) for posted workers is abolished and the HIIS no longer makes changes to the insurance base on its own initiative.

**Can the service contract be submitted in a foreign language in order to obtain an A1 certificate?**

Yes, this is possible. If required by the supervisory authority, a translation into Slovenian should be provided.

**We intend to post workers to Germany, some of whom are citizens of Bosnia and Herzegovina with valid residence and work permits in Slovenia. Are there any additional arrangements required for these workers apart from those that we need to make for workers who are Slovenian citizens?**

The posted worker’s nationality is irrelevant for working in another EU Member State, but it is relevant for entry into and residence in that EU Member State. As the conditions for entry and residence of third-country nationals vary from one Member State to another, you should contact the competent authorities of the host Member State.

In particular, third-country nationals require a "Vander Elst" visa to enter and reside in the framework of cross-border service provision by a Slovenian company. Further information on obtaining this visa can be found on the website of the German Embassy in Ljubljana.

**I am sole proprietor and I would like to know if I can work as a subcontractor for another Slovenian company in Austria?**

Yes, although we advise you to strictly separate the work between you or your workers and the main contractor’s workers, including the use of equipment.

**Do my workers need to be employed full-time in order for me to obtain an A1 certificate for them?**

An undertaking may also post a worker on a part-time basis, i.e. under a part-time employment contract, but the worker must have previously been covered by compulsory social security on a full-time basis, or by the relevant social security schemes on some other statutory basis for at least 30 consecutive days. The condition of previous full-time employment does not apply to workers whose working time is reduced in accordance with the rules on pension and disability insurance or parental care, or to workers who have been employed part-time for at least six months by the employer who intends to post them.

**What provisions should be included in the act of posting (or an equivalent act in the case of posting) under which a worker is posted to an affiliated company?**

It is necessary to take into account Article 209 of the Employment Relationships Act, which provides that, in addition to the obligatory components required by law, the employment contract must contain provisions on:

* the duration of the work abroad,
* holidays and work-free days,
* minimum annual leave,
* the amount of salary to which the worker is entitled to in accordance with the regulations of the country in which the work is carried out, and the currency in which the salary is paid,
* additional insurance for health care abroad,
* other income, in cash or in kind, to which the worker is entitled while working abroad,
* the manner of ensuring and exercising rights related to payment for work and other benefits which are provided in a different manner under the regulations of the state in which the work is performed, but this must be within the scope provided in Employment Relationships Act or more favourable to the worker,
* the conditions of return to Slovenia.

**Do we still have to comply with all the rules on posting workers even if our posted workers only work in another EU Member State and return to Slovenia on a daily basis?**

Yes, you do.

**We want to post our workers who are third-country nationals. Are there any special regulations regarding A1 certificates?**

Regulation (EU) No. 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality provides that the Regulation is binding in its entirety and directly applicable in the Member States in accordance with the Treaties. Please note that, in accordance with recitals 18 and 19 of Regulation (EU) No 1231/2010, these regulations do not apply to the United Kingdom and Denmark.

Accordingly, it is important to note that the Health Insurance Institute of Slovenia does not issue A1 certificates for the United Kingdom, Denmark, Norway, Liechtenstein, Iceland and the Swiss Confederation for the posting of third-country nationals. Instead, an alternative certificate is issued confirming coverage under the compulsory Slovenian social security system, provided there is a legal framework allowing this (e.g. the Social Security Agreement between the Republic of Slovenia and the Swiss Confederation).

**A Slovenian company is experiencing difficulties in obtaining an A1 certificate due to outstanding tax liabilities even after it has settled its obligations and submitted a certificate from the Financial Administration of the Republic of Slovenia confirming that it has no tax liabilities after the obligation has been paid. What should be done in this case, given that the conditions for obtaining an A1 form have been met?**

The employer can resubmit the application via the e-VEM portal once the reason for the rejection, i.e. the outstanding tax liability, has been resolved. If the Health Insurance Institute of Slovenia's system does not reflect the updated tax clearance information on the date of submission of the application, the employer can request a certificate from the relevant tax office confirming that the reason for the rejection has been removed. The tax office will issue a certificate confirming that the tax liability has been settled, which will automatically be sent to the Health Insurance Institute's system for the issuance of the A1 certificate. For more information, please visit the website of the Slovenian Financial Administration.

It is important to note that merely settling outstanding tax liabilities arising from the employment relationship may not suffice to fulfil all the conditions for obtaining the A1 certificate referred to in Article 4 of the Transnational Provision of Services Act. In addition to the condition of settling tax liabilities, the verification procedure for the issuance of the A1 certificate also includes ensuring that the employer has submitted withholding tax returns on income from the employment relationship during the previous six months. For newly established companies that have been in operation for less than six months, this condition applies from the date of establishment. Similarly, failure to submit employment income withholding tax returns and the employment income contribution returns is considered to be an offence under the Tax Procedure Act (ZDavP-2) and is punishable by a fine. If the employer has been fined more than once in the last three years for violating the provisions on remuneration for work, the conditions set out in Article 4 of the Transnational Provision of Services Act are not met and the issuance of an A1 certificate will be refused in accordance with paragraph 13 of Article 4 of this Act.

**What is a break or a short break within the meaning of the Personal Income Tax Act (ZDoh-2), in particular in the case of short-term postings for the purpose of providing services (e.g. a worker sells products at a trade fair in Austria for one week, then in Slovenia for two weeks, then in Germany for two weeks)?**

The duration of the posting abroad is primarily determined by the agreement between the worker and the employer. This agreement is decisive for assessing the posting’s termination, taking into account both its formal and informal aspects, the factual situation and the economic substance. If the worker and the employer have mutually agreed that the worker will alternate between working abroad and working in Slovenia (e.g. if the employment contract stipulates that the worker's place of work will be in Austria for one week, then in Slovenia for two weeks and then in Germany for two weeks), the days worked in Slovenia will be considered a break in the posting when determining the duration of the posting. For full information on how to determine the posting’s duration, please refer to the detailed guidelines available on the website of the Financial Administration of the Republic of Slovenia.

**What documentation must be submitted to the Labour Inspectorate of the Republic of Slovenia if a company based in the UK wants to provide transnational services in Slovenia using posted workers?**

From 1 January 2021, the provisions of Regulation 883/2004, Regulation 987/2009, Directive 96/71/EC and Directive 2014/67/EU will no longer apply to the UK. The foreign employer must submit to the supervisory authorities of the Republic of Slovenia an information sheet for each employee; a certificate confirming that the posted worker is covered by the social security system in the UK on the basis of the Agreement on Trade and Cooperation between the European Union and the European Atomic Energy Community, on the one hand, and the United Kingdom of Great Britain and Northern Ireland, of the other hand, (until the form is determined, the A1 certificate will continue to be used); the worker's employment contract; a registration of commencement of the provision of services; a certificate of completion of the registration of the commencement of the provision of services; and a contract between the client and the service provider.

**Frequently Asked Questions about the procedure for obtaining A1 certificates under the Transnational Provision of Services Act**

## Most frequent violations by employers

**What steps can I take if my employer has not paid for my work?**

If your employer has not paid you your salary, you have several options. One option is to claim payment of your salary by bringing an action against your employer before a labour court. Alternatively, you can seek judicial enforcement by using a written pay slip issued by your employer as an authentic instrument that provides a credible basis for your claim. Please note that claims arising from employment are time-barred after five years.

If your employer:

* has not paid you a salary (or has paid you a significantly lower salary) for more than two months,
* has failed to pay you salary twice in succession or within a period of six months taking into consideration the legally and/or contractually stipulated period,
* has failed to provide you with work for more than two months and has also failed to pay you salary compensation,
* has failed to pay social security contributions in full three times in succession or within a period of six months,

then, in all the above-mentioned cases, you can cancel your employment contract exceptionally (without notice) in accordance with the provisions of the Employment Relationships Act (ZDR-1). In this case, in addition to the arrears of salary and contributions, your employer will have to pay you the severance pay, as defined in the case of ordinary cancellation of the employment contract for business reasons, and compensation of at least the amount of the salary lost during the notice period.

You also have the option of reporting the non-payment of salaries to the Labour Inspectorate of the Republic of Slovenia. However, it is important to understand that if the Labour Inspectorate finds violations in relation to the payment of salaries, it can only sanction the employer for the violation, but it does not have the authority to enforce the actual payment of salaries. This can only be achieved through legal proceedings before a labour court.

**What can I do if my employer has dismissed me without justification or documentation?**

If your employer has terminated your employment contract without justification, or has done so orally without any special procedure or proper documentation, you can bring an action before the labour court within 30 days of receiving the notice of termination or becoming aware of the violation of your rights, to have the dismissal declared unlawful. According to the law, dismissals must be in writing and properly served, and must follow the prescribed procedures. If the employer does not comply with these requirements, you can also report the employer's violation to the Labour Inspectorate of the Republic of Slovenia. If the inspectorate finds that there has been a violation of the procedure or of the service of the notice, it can impose a sanction on the employer for the violation, but it cannot take action to have the dismissal declared null and void. The latter is the exclusive competence of the labour court.

**What can I do if my employer does not arrange for me to return to my home country after working abroad?**

If your employer does not arrange for you to return to Slovenia after completing your work abroad, this is a criminal offence. You can report this offence to the Labour Inspectorate of the Republic of Slovenia. Once you have returned to your home country, you have the right to sue your employer for reimbursement of the costs of your return and compensation for any inconvenience you may have suffered.

If you find yourself stranded abroad without the means to return home, you can seek assistance from a diplomatic mission of the Republic of Slovenia, such as an embassy or consulate. The diplomatic mission can issue the necessary travel documents for your return, such as an emergency passport or identity card, and can help you contact your relatives or the relevant social services if necessary. If there is no Slovenian representation in the country, you can contact a diplomatic mission of another EU country for assistance in obtaining an 'emergency travel document'.

## Most frequent violations by workers

**What can I do if a worker does not show up for work?**

If a worker fails to report for work without a justified reason, this constitutes a breach of the contractual obligations that the worker has undertaken to fulfil by signing the employment contract. In accordance with the provisions laid down in the employer's general acts, breaches of the obligations arising from the employment relationship may give rise to disciplinary liability. In the event of such breaches, the employer may impose disciplinary sanctions on the worker in accordance with pre-established disciplinary procedures, if such exist. It's important to note, however, that these sanctions cannot permanently change the worker's employment status. In such cases, if the employer suffers a loss as a result of the worker's unjustified absence, the worker is liable to compensate the employer. However, before any compensation is determined, a formal procedure is followed to determine the extent of the loss incurred, to establish liability and to identify the responsible party.

Unauthorised absence from work is also grounds for extraordinary cancellation of the employment contract, i.e. an employer may terminate the employment contract of a worker (without giving notice) who does not attend work for at least five consecutive days and who does not inform the employer of the reasons for their absence, although they should and could have done so. Before dismissing the worker, the employer must follow a specific procedure and observe time limits, which are relatively short in the case of extraordinary dismissal. In this case, the worker's employment contract will be terminated on the first day of unjustified absence from work if the worker does not return to work before the notice of extraordinary dismissal is served.

**What can I do if a worker performs work unprofessionally, in an untimely manner and makes mistakes?**

The answer to this question depends on the reasons why the worker is doing the job in the way described. In the event of disciplinary offences, the employer can take disciplinary action against the worker. The employer may also (in a separate procedure) claim compensation from the worker if the employer has suffered damage as a result of the worker's action (or inaction).

If the reasons for the worker's unprofessional or untimely work are of a medical nature, the employer may refer the worker for a targeted preventive health check-up in the following cases:

* in case of reduced capacity to work,
* following an illness or injury outside work that requires prolonged treatment and where there is doubt about the worker's ability to carry out their previous work,
* where there is a suspicion of an addictive disorder that may affect the worker's ability to work,
* in the case of workers who have been absent from work five or more times in a year because of illness or injury.

The authorised physician must provide the employer within 10 days with an assessment of whether the worker meets the specific health requirements for specific work in the working environment. At the proposal of the worker’s authorised physician (and with the agreement of the worker's personal physician), a procedure may also be initiated to enforce the worker's disability insurance rights. The employer must then take into account the results of the medical examination and offer the worker work that does not aggravate the worker's health condition. If no such work is available, the employer may initiate the procedure for dismissal on grounds of incapacity or, if the worker is disabled, on grounds of disability. In the latter case, the employer must also obtain the opinion of a special committee before terminating the employment relationship.

However, failure to achieve the expected work results due to the worker's failure to perform work in a timely, professionally and quality manner is also a reason for ordinary cancellation of the employment contract on the grounds of the worker's incapacity. Before such a dismissal, the employer must follow a specific procedure laid down in the Employment Relationships Act (ZDR-1).

**What to do if the worker does not follow the employer's instructions?**

In such cases, the employer has the right to initiate disciplinary and compensation proceedings against the worker. The employer also has the right to dismiss the worker for incompetence or for misconduct (violation of a contractual obligation or other obligation arising from the employment relationship). However, failure to comply with the employer's instructions may pose a risk to the health and safety of the worker, colleagues or others, particularly in certain jobs and circumstances. Therefore, in the event of serious violations of work obligations, the employer also may also effect extraordinary cancellation of the employment contract in accordance with the procedure provided for in the Employment Relationships Act (ZDR-1). Upon initiating the procedure for extraordinary cancellation of the employment contract, the employer may prohibit the worker from carrying out work for the duration of the procedure. During the period of prohibition from work, the worker is entitled to wage compensation in the amount of half of the average wage received in the previous three months.

# COMPETENT INSTITUTIONS AND INTEREST GROUPINGS

## Competent institutions

**The Employment Service of Slovenia**

The Employment Service of Slovenia (ESS) is the authority responsible for processing applications for the provision of services with posted workers in Slovenia and for approving the single permit for posted workers.

Registration for the provision of services can also be done online. In addition, the ESS issues the approval to the single permit for posted workers at the request of the administrative unit as part of the procedure for issuing the single permit for residence and work for cross-border service provision.

**Labour Inspectorate of the Republic of Slovenia**

Violations may be brought before the Labour Inspectorate of the Republic of Slovenia, a body within the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The Labour Inspectorate also carries out inspections to ensure compliance with laws and regulations, collective agreements and general acts regulating employment relationships, pay and other forms of remuneration arising from the employment relationship.

**Financial Administration of the Republic of Slovenia**

The Financial Administration of the Republic of Slovenia (FURS) provides information on the tax obligations of workers posted by their employers to work abroad or of foreigners working in Slovenia on the basis of a posting. It also informs their employers about the taxation of income derived from employment. The Financial Administration's tasks include the assessment and calculation of compulsory levies and financial supervision.

**Health Insurance Institute of Slovenia**

In accordance with European social security legislation governing the posting of workers, the Health Insurance Institute of Slovenia is the competent authority for the implementation of both the health care provisions and the determination of the applicable legislation, including the issue of the A1 certificates.

An A1 certificate is an official document issued in accordance with EU regulations. It certifies that certain conditions are met for a worker to remain exclusively covered by the social security legislation of their home Member State during a specified period of work in another Member State. With this document, the host Member State to which the worker is posted cannot require the worker to be included in its own social security system or collect social security contributions under its own legislation.

**Ministry of Labour, Family, Social Affairs, and Equal Opportunities of the Republic of Slovenia**

In matters related to labour migration, the Ministry of Labour, Family, Social Affairs and Equal Opportunities cooperates closely with the Employment Service of Slovenia and other ministries, in particular the Ministry of the Interior. The Labour Migration Department drafts proposals for legislative acts and implementing regulations relating to the employment and work of foreign nationals in Slovenia, monitors the implementation of regulations and deals with complaints against the decisions adopted by the Employment Service of Slovenia refusing to issue seasonal work permits to foreign nationals. It takes part in the drafting of EU legislative proposals relating to the free movement of labour and services and the entry, residence and employment of third-country nationals. Its representatives also participate in various EU working groups on migration and the coordination of social security systems.

**Ministry of the Interior**

The Ministry of the Interior is responsible for the entry and residence of workers posted to work in Slovenia in accordance with the Foreigners Act (Official Gazette of the Republic of Slovenia, Nos 91/21 – officially consolidated version, 95/21 – corr. and 105/22 – ZZNŠPP, 48/23 in 115/23).

##  Interest groupings

**Association of Free Trade Unions of Slovenia (ZSSS)**

The activities and competences of the Association of Free Trade Unions of Slovenia regarding the posted workers include:

* Raising awareness among posted workers about posting procedures and continuous monitoring of employers;
* Strengthening cooperation with supervisory authorities and competent institutions (such as the Labour Inspectorate, the Health Insurance Institute) on issues related to posted workers;
* Increasing international interinstitutional cooperation through the exchange of information;
* Encouraging posted workers to cooperate with supervisory and law enforcement authorities;
* Raising awareness among posted workers through the provision of technical assistance and legal information and advice;
* Strengthening cooperation with German trade unions and official authorities from Germany and Austria;
* Cooperation with countries where Slovenian companies post foreign workers;
* Visiting competent institutions or organisations in countries where violations of posted workers' rights are widespread;
* Developing and disseminating relevant informative and guidance material and tools for posted workers;
* Strengthening existing cooperation with supervisory and law enforcement authorities, including at the international level, through prompt reporting of detected violations and regular notification.

**Chamber of Craft and Small Business of Slovenia**

The Chamber of Craft and Small Business of Slovenia protects and represents the interests of employers. For a number of years, it has been active in consulting and providing expert assistance to its members in matters of posting abroad and related procedures. It also provides counselling and legal assistance with contracts in cases of posting workers abroad. It cooperates internationally with employers' institutions and strengthens cooperation with supervisory authorities, both within the EU and in third countries. As an employer institution, it also cooperates with chambers of craft around the world, thus providing its members with professional support through the exchange of good practices and various forms of institutional capacity building (e.g. study visits of experts to different EU Member States), mostly cofinanced by various EU programmes.

**Association of Employers of Slovenia**

The Association of Employers of Slovenia is the first voluntary economic interest grouping in Slovenia, which has been representing and protecting the interests of employers since 1994.

The Association of Employers has been dealing with issues and problems related to the posting of employees abroad for a number of years. They have published two brochures on the subject entitled "Procedures for the posting of Slovenian workers to EU Member States" and "The posting of managers and experts abroad".

As part of their membership in the Association, employers are provided with information on the procedures for posting workers abroad. The Association also provides advice on the mandatory content of contracts to be concluded with an employee in the event of a posting abroad.

**Chamber of Commerce and Industry of Slovenia**

The Chamber of Commerce and Industry of Slovenia (CCI) is the largest, most powerful and influential business association in Slovenia. Its main mission is to improve the business environment and thus enable greater economic growth. It is organised as a network covering all regions of Slovenia and all industries. In addition to lobbying, it offers a wide range of services to support the operation of companies both at home and abroad, and is particularly active in the area of posting workers.

**Counselling Office for Workers**

[The Counselling Office for Workers](http://www.delavskasvetovalnica.si/) is an organisation dedicated to the advocacy, protection, promotion and development of the workers, their social and status rights, and other vulnerable groups, with a special focus on respect for the rights of posted workers.